

FIRST REGULAR SESSION

SENATE BILL NO. 66

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0286S.02I

AN ACT

To repeal sections 86.590, 375.320, 375.330, 375.340, 375.345, 375.480, 375.532, 375.534, 375.1070, 375.1072, 375.1075, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.320, 376.672, 376.1012, 377.100, 377.200, 381.068, and 409.950, RSMo, and to enact in lieu thereof thirty-five new sections relating to insurance company investments, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 86.590, 375.320, 375.330, 375.340, 375.345, 375.480, 375.532, 375.534, 375.1070, 375.1072, 375.1075, 376.170, 376.190, 376.280, 376.300, 376.301, 376.303, 376.305, 376.307, 376.320, 376.672, 376.1012, 377.100, 377.200, 381.068, and 409.950, RSMo, are repealed and thirty-five new sections enacted in lieu thereof, to be known as sections 86.590, 375.320, 375.330, 375.340, 375.345, 375.480, 375.532, 375.534, 375.1070, 375.1072, 375.1075, 376.170, 376.190, 376.280, 376.291, 376.292, 376.293, 376.294, 376.295, 376.296, 376.297, 376.298, 376.300, 376.301, 376.302, 376.303, 376.304, 376.305, 376.306, 376.307, 376.1012, 377.100, 377.200, 381.068, and 409.950, to read as follows:

86.590. The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, may invest and reinvest the moneys of the system, and may hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys; except that such investment and reinvestments shall be subject to all the terms, conditions, limitations, and restrictions imposed by law upon life insurance or casualty companies in the state of Missouri in making and disposing of their

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

9 investments[, except that the percentage limitations of subsection 2 of section
10 376.305, RSMo, shall not apply]. The board of trustees of police and firemen's
11 pension systems, established under the provisions of section 86.583, shall comply
12 with the prudent investor standard for investment fiduciaries as provided in
13 section 105.688, RSMo, when investing the assets of the system.

375.320. 1. No insurance company formed under the laws of this state
2 shall, directly or indirectly, deal or trade in any goods, wares, merchandise or
3 other commodities whatsoever, except such as may be incident to and necessary
4 in connection with the ownership and operation of property held under the
5 provisions of sections 375.330 and 375.340.

6 **2. This section shall not apply to an insurer organized under**
7 **chapter 376, RSMo.**

375.330. 1. No insurance company formed under the laws of this state
2 shall be permitted to purchase, hold or convey real estate, excepting for the
3 purpose and in the manner herein set forth, to wit:

4 (1) Such as shall be necessary for its accommodation in the transaction of
5 its business; provided that before the purchase of real estate for any such
6 purpose, the approval of the director of the department of insurance must be first
7 had and obtained, and except with the approval of the director, the value of such
8 real estate, together with all appurtenances thereto, purchased for such purpose
9 shall not exceed twenty percent of the insurance company's capital and surplus
10 as shown by its last annual statement; or

11 (2) Such as shall have been mortgaged in good faith by way of security for
12 loans previously contracted, or for moneys due; or

13 (3) Such as shall have been conveyed to it in satisfaction of debts
14 contracted in the course of its dealings; or

15 (4) Such as shall have been purchased at sales upon the judgments,
16 decrees or mortgages obtained or made for such debts; or

17 (5) Such as shall be necessary and proper for carrying on its legitimate
18 business under the provisions of the Urban Redevelopment Corporations Act; or

19 (6) Such as shall have been acquired under the provisions of the Urban
20 Redevelopment Corporations Act permitting such company to purchase, own, hold
21 or convey real estate; or

22 (7) Such real estate, or any interest therein, as may be acquired or held
23 by it by purchase, lease or otherwise, as an investment for the production of
24 income, which real estate or interest therein may thereafter be held, improved,
25 developed, maintained, managed, leased, sold or conveyed by it as real estate

26 necessary and proper for carrying on its legitimate business; or

27 (8) A reciprocal or interinsurance exchange may, in its own name,
28 purchase, sell, mortgage, hold, encumber, lease, convey, or otherwise affect the
29 title to real property for the purposes and objects of the reciprocal or
30 interinsurance exchange. Such deeds, notes, mortgages or other documents
31 relating to real property may be executed by the attorney in fact of the reciprocal
32 or interinsurance exchange. This provision shall be retroactive and shall apply
33 to real estate owned or sold by a reciprocal insurer prior to August 28, 1990.

34 2. The investments acquired under subdivision (7) of subsection 1 of this
35 section may be in either existing or new business or industrial properties, or for
36 new residential properties or new housing purposes.

37 3. Provided, no such insurance company shall invest more than ten
38 percent of its admitted assets, as shown by its last annual statement preceding
39 the date of acquisition, as filed with the director of the department of insurance
40 of the state of Missouri, in the total amount of real estate acquired under
41 subdivision (7) of subsection 1, nor more under subdivision (7) of subsection 1
42 than one percent of its admitted assets or ten percent of its capital and surplus,
43 whichever is greater, in any one property, nor more under subdivision (7) of
44 subsection 1 than one percent of its admitted assets or ten percent of its capital
45 and surplus, whichever is greater, in total properties leased or rented to any one
46 individual, partnership or corporation.

47 4. It shall not be lawful for any company incorporated as aforesaid to
48 purchase, hold or convey real estate in any other case or for any other purpose;
49 and all such real estate acquired in payment of a debt, by foreclosure or
50 otherwise, and real estate exchanged therefor, shall be sold and disposed of
51 within ten years after such company shall have acquired absolute title to the
52 same, unless the company owning such real estate or interest therein shall elect
53 to hold it pursuant to subdivision (7) of subsection 1.

54 5. The director of the department of insurance may, for good cause shown,
55 extend the time for holding such real estate acquired in paying of a debt, by
56 foreclosure or otherwise, and real estate exchanged therefor, and not held by the
57 company under subdivision (7) of subsection 1, for such period as he may find to
58 be to the best interests of the policyholders of said company.

59 6. If a life insurance company depositing under section 376.170, RSMo,
60 becomes the owner of real estate pursuant to this section, the company may
61 execute its own deed for the real estate to the director of the department of
62 insurance, as trustee. The deed may be deposited with the director as proper

63 security, under and according to the provisions of sections 376.010 to 376.670,
64 RSMo, the value to be subject to the approval of the director.

65 **7. This section shall not apply to an insurer organized under**
66 **chapter 376, RSMo.**

375.340. 1. In all cases in which life insurance companies, benefit
2 societies or other associations doing business in this state shall have legally
3 acquired by foreclosure or in payment of a debt previously contracted any real
4 estate or personal property situated in this state or elsewhere, said company,
5 society or association may upon the sale of said property take in payment or part
6 payment thereof the stocks or bonds of any company or corporation purchasing
7 said property and may exchange any real estate acquired in foreclosure or in
8 payment of debts, in whole or in part, for other real estate.

9 **2. This section shall not apply to an insurer organized under**
10 **chapter 376, RSMo.**

375.345. 1. As used in this section, the following words and terms mean:

2 (1) "Admitted assets", assets permitted to be reported as admitted assets
3 on the statutory financial statement of the insurance company most recently
4 required to be filed with the director, but excluding assets of separate accounts,
5 the investments of which are not subject to the provisions of law governing the
6 general investment account of the insurance company;

7 (2) "Cap", an agreement obligating the seller to make payments to the
8 buyer, with each payment based on the amount by which a reference price, level,
9 performance, or value of one or more underlying interests exceeds a
10 predetermined number, sometimes called the strike rate or strike price;

11 (3) "Collar", an agreement to receive payments as the buyer of an option,
12 cap, or floor and to make payments as the seller of a different option, cap, or
13 floor;

14 (4) "Counterparty exposure amount":

15 (a) The amount of credit risk attributable to an over-the-counter
16 derivative instrument. The amount of credit risk equals:

17 a. The market value of the over-the-counter derivative instrument if the
18 liquidation of the derivative instrument would result in a final cash payment to
19 the insurance company; or

20 b. Zero if the liquidation of the derivative instrument would not result in
21 a final cash payment to the insurance company;

22 (b) If over-the-counter derivative instruments are entered into under a
23 written master agreement which provides for netting of payments owed by the

24 respective parties, and the domicile of the counterparty is either within the
25 United States or within a foreign jurisdiction listed in the Purposes and
26 Procedures of the Securities Valuation Office as eligible for netting, the net
27 amount of credit risk shall be the greater of zero or the net sum of:

28 a. The market value of the over-the-counter derivative instruments
29 entered into under the agreement, the liquidation of which would result in a final
30 cash payment to the insurance company; and

31 b. The market value of the over-the-counter derivative instruments
32 entered into under the agreement, the liquidation of which would result in a final
33 cash payment by the insurance company to the business entity;

34 (c) For open transactions, market value shall be determined at the end of
35 the most recent quarter of the insurance company's fiscal year and shall be
36 reduced by the market value of acceptable collateral held by the insurance
37 company or placed in escrow by one or both parties;

38 (5) "Derivative instrument", an agreement, option, instrument, or a series
39 or combination thereof that makes, takes delivery of, assumes, relinquishes, or
40 makes a cash settlement in lieu of a specified amount of one or more underlying
41 interests, or that has a price, performance, value, or cash flow based primarily
42 upon the actual or expected price, level, performance, value or cash flow of one
43 or more underlying interests. Derivative instruments also include options,
44 warrants used in a hedging transaction and not attached to another financial
45 instrument, caps, floors, collars, swaps, forwards, futures and any other
46 agreements, options or instruments substantially similar thereto, and any other
47 agreements, options, or instruments permitted under rules or orders promulgated
48 by the director;

49 (6) "Derivative transaction", a transaction involving the use of one or more
50 derivative instruments;

51 (7) "Director", the director of the department of insurance of this state;

52 (8) "Floor", an agreement obligating the seller to make payments to the
53 buyer in which each payment is based on the amount by which a predetermined
54 number, sometimes called the floor rate or price, exceeds a reference price, level,
55 performance, or value of one or more underlying interests;

56 (9) "Forward", an agreement other than a future to make or take delivery
57 of, or effect a cash settlement based on the actual or expected price, level,
58 performance or value of, one or more underlying interests, but not including spot
59 transactions effected within customary settlement periods, when issued purchases
60 or other similar cash market transactions;

61 (10) "Future", an agreement traded on an exchange to make or take
62 delivery of, or effect a cash settlement based on the actual or expected price, level,
63 performance or value of one or more underlying interests and which includes an
64 insurance future;

65 (11) "Hedging transaction", a derivative transaction that is entered into
66 and maintained to reduce:

67 (a) The risk of economic loss due to a change in the value, yield, price,
68 cash flow or quantity of assets or liabilities that the insurance company has
69 acquired or incurred or anticipates acquiring or incurring;

70 (b) The currency exchange rate risk or the degree of exposure as to assets
71 or liabilities that the insurance company has acquired or incurred or anticipates
72 acquiring or incurring; or

73 (c) Risk through such other derivative transactions as may be specified to
74 constitute hedging transactions by rules or orders adopted by the director;

75 (12) "Income generation transaction":

76 (a) A derivative transaction involving the writing of covered call options,
77 covered put options, covered caps or covered floors that is intended to generate
78 income or enhance return; or

79 (b) Such other derivative transactions as may be specified to constitute
80 income generation transactions in rules or orders adopted by the director;

81 (13) "Initial margin", the amount of cash, securities or other consideration
82 initially required to be deposited to establish a futures position;

83 (14) "NAIC", the National Association of Insurance Commissioners;

84 (15) "Option", an agreement giving the buyer the right to buy or receive,
85 sell or deliver, enter into, extend, terminate or effect a cash settlement based on
86 the actual or expected price, level, performance or value of one or more
87 underlying interests;

88 (16) "Over-the-counter derivative instrument", a derivative instrument
89 entered into with a business entity other than through an exchange or
90 clearinghouse;

91 (17) "Potential exposure", the amount determined in accordance with the
92 NAIC Annual Statement Instructions;

93 (18) "Replication transaction", a derivative transaction effected either
94 separately or in conjunction with cash market investments included in the
95 insurer's investment portfolio and intended to replicate the investment
96 characteristic of another authorized transaction, investment or instrument or to
97 operate as a substitute for cash market transactions. A derivative transaction

98 that is entered into as a hedging transaction or an income generation transaction
99 shall not be considered a replication transaction;

100 (19) "SVO", the Securities Valuation Office of the NAIC or any successor
101 office established by the NAIC;

102 (20) "Swap", an agreement to exchange or to net payments at one or more
103 times based on the actual or expected price, level, performance or value of one or
104 more underlying interests;

105 (21) "Underlying interest", the assets, liabilities, other interests, or a
106 combination thereof underlying a derivative instrument, such as any one or more
107 securities, currencies, rates, indices, commodities or derivative instruments;

108 (22) "Warrant", an instrument that gives the holder the right to purchase
109 an underlying financial instrument at a given price and time or at a series of
110 prices and times outlined in the warrant agreement.

111 2. An insurance company, **including those organized under chapter**
112 **376, RSMo**, may, directly or indirectly through an investment subsidiary, engage
113 in derivative transactions pursuant to this section under the following conditions:

114 (1) In general:

115 (a) An insurance company may use derivative instruments pursuant to
116 this chapter to engage in hedging transactions and certain income generation
117 transactions;

118 (b) Upon request, an insurance company shall demonstrate to the director
119 the intended hedging characteristics and the ongoing effectiveness of the
120 derivative transaction or combination of the transactions through cash flow
121 testing or other appropriate analyses;

122 (2) An insurance company shall only maintain its position in any
123 outstanding derivative instrument used as part of a hedging transaction for as
124 long as the hedging transaction continues to be effective;

125 (3) An insurance company may enter into hedging transactions if as a
126 result of and after giving effect to the transaction:

127 (a) The aggregate statement value of options, caps, floors and warrants
128 not attached to another financial instrument purchased and used in hedging
129 transactions then engaged in by the insurer does not exceed seven and one-half
130 percent of its admitted assets;

131 (b) The aggregate statement value of options, caps and floors written in
132 hedging transactions then engaged in by the insurer does not exceed three
133 percent of its admitted assets; and

134 (c) The aggregate potential exposure of collars, swaps, forwards and

135 futures used in hedging transactions then engaged in by the insurer does not
136 exceed six and one-half percent of its admitted assets;

137 (4) An insurance company may only enter into the following types of
138 income generation transactions if as a result of and after giving effect to an
139 income generation transaction, the aggregate statement value of the fixed income
140 assets that are subject to call or that generate the cash flows for payments under
141 the caps or floors, plus the face value of fixed income securities underlying a
142 derivative instrument subject to call, plus the amount of the purchase obligations
143 under the puts, shall not exceed ten percent of its admitted assets:

144 (a) Sales of covered call options on noncallable fixed income securities,
145 callable fixed income securities if the option expires by its terms prior to the end
146 of the noncallable period, or derivative instruments based on fixed income
147 securities;

148 (b) Sales of covered call options on equity securities if the insurance
149 company holds in its portfolio or can immediately acquire through the exercise of
150 options, warrants or conversion rights already owned, the equity securities subject
151 to call during the complete term of the call option sold;

152 (c) Sales of covered puts on investments that the insurance company is
153 permitted to acquire under the applicable insurance laws of the state, if the
154 insurance company has escrowed or entered into a custodian agreement
155 segregating cash or cash equivalents with a market value equal to the amount of
156 its purchase obligations under the put during the complete term of the put option
157 sold; or

158 (d) Sales of covered caps or floors if the insurance company holds in its
159 portfolio the investments generating the cash flow to make the required payments
160 under the caps or floors during the complete term that the cap or floor is
161 outstanding;

162 (5) An insurance company may use derivative instruments for replication
163 transactions only after the director promulgates reasonable rules that set forth
164 methods of disclosure, reserving for risk-based capital, and determining the asset
165 valuation reserve for these instruments. Any asset being replicated is subject to
166 all the provisions and limitations on the making thereof specified in this chapter
167 and chapters 376 and 379, RSMo, with respect to investments by the insurer as
168 if the transaction constituted a direct investment by the insurer in the replicated
169 asset;

170 (6) An insurance company shall include all counterparty exposure amounts
171 in determining compliance with this state's single-entity investment limitations;

172 (7) The director may approve, by rule or order, additional transaction
173 conditions involving the use of derivative instruments for other risk management
174 purposes.

175 3. Written investment policies and record-keeping procedures shall be
176 approved by the board of directors of the insurance company or by a committee
177 authorized by such board before the insurance company may engage in the
178 practices and activities authorized by this section. These policies and procedures
179 must be specific enough to define and control permissible and suitable investment
180 strategies with regard to derivative transactions with a view toward the
181 protection of the policyholders. The minutes of any such committee shall be
182 recorded and regular reports of such committee shall be submitted to the board
183 of directors.

184 4. The director may promulgate reasonable rules and regulations pursuant
185 to the provisions of chapter 536, RSMo, not inconsistent with this section and any
186 other insurance laws of this state, establishing standards and requirements
187 relating to practices and activities authorized in this section, including, but not
188 limited to, rules which impose financial solvency standards, valuation standards,
189 and reporting requirements.

375.480. 1. When any company, which has on deposit the securities
2 named in [sections] **section** 376.170 [and 376.300], RSMo, with the director of
3 the insurance department, shall desire to relinquish and cease its business in this
4 state, said director shall, upon application of such company, under the oath of the
5 president or vice president and secretary or assistant secretary, give notice of
6 such intention in any newspaper of general circulation published in the county or
7 city in which said company is located, if it is a company of this state, or in some
8 newspaper published in the city of St. Louis, if it is a company of another state
9 or government, at least twice a week for six weeks.

10 2. After such publication he shall deliver up and transfer to said company
11 the securities held by him and belonging to the company; but before making such
12 transfer, the director shall be satisfied, by an examination of the books and
13 papers of such company, to be made by himself or some competent person to be
14 appointed by him, or by the oath of the acting president and secretary or
15 assistant secretary of said company if it be a company organized under the laws
16 of this state, that all debts and liabilities of every kind that are due, or may
17 become due, upon all contracts or agreements made with the policyholders in said
18 company, or in any company reinsured by said company, if the deposit is that of
19 a reinsured company and is held for the security of the policyholders of said

20 reinsured company under sections 375.010 to 375.920, are released, satisfied or
21 extinguished; or if it be a company not organized under the laws of this state,
22 that all debts and liabilities of every kind, whether fixed or contingent, due or
23 that may become due to this state or to any county or municipality or citizen
24 thereof, are released, satisfied or extinguished; and the said director may, from
25 time to time, authorize the delivery in the manner aforesaid, to such company or
26 its assigns, of any portion of such securities, on being satisfied in the manner and
27 form aforesaid, that all debts and liabilities of every kind as aforesaid are less
28 than one-half the amount of the said securities which are retained.

375.532. 1. The capital, reserve and surplus of a domestic insurer may be
2 invested in bonds, notes or other evidences of indebtedness, or preferred or
3 guaranteed stocks or shares, issued, assumed or guaranteed by an institution
4 organized under the laws of the United States, any state, territory or possession
5 of the United States, or the District of Columbia, if such bonds, notes or other
6 evidences of indebtedness, or preferred or guaranteed stocks or shares, shall carry
7 at least the second highest designation or quality rating conferred by the
8 Securities Valuation Office of the National Association of Insurance
9 Commissioners, or some similar or equivalent rating by a nationally recognized
10 rating agency which has been approved by the director.

11 2. As used in this section, the term "institution" means a corporation, a
12 joint stock company, an association, a trust, a business partnership, a business
13 joint venture or similar entity.

14 **3. This section shall not apply to an insurer organized under**
15 **chapter 376, RSMo.**

375.534. 1. In addition to other foreign investments permitted by
2 Missouri law for the type or kind of insurance company involved, the capital,
3 reserves and surplus of all insurance companies of whatever kind and character
4 organized under the laws of this state, having admitted assets of not less than
5 one hundred million dollars, may be invested in securities, investments and
6 deposits issued, guaranteed or assumed by a foreign government or foreign
7 corporation, or located in a foreign country, whether denominated in United
8 States dollars or in foreign currency, subject to the following conditions:

9 (1) Such securities, investments and deposits shall be of substantially the
10 same kind, class and quality of like United States investments eligible for
11 investment by an insurance company under Missouri law;

12 (2) An insurance company shall not invest or deposit in the aggregate
13 more than five percent of its admitted assets under this section, except that an

14 insurance company may reinvest or redeposit any income or profits generated by
15 investments permitted under this section; and

16 (3) Such securities, investments and deposits shall be aggregated with
17 United States investments of the same class in determining compliance with
18 percentage limitations imposed under Missouri law for investments in that class
19 for the type or kind of insurance company involved.

20 **2. This section shall not apply to an insurer organized under**
21 **chapter 376, RSMo.**

375.1070. 1. Sections 375.1070 to 375.1075 may be cited as the
2 "Investments in Medium and Lower Quality Obligations Law".

3 **2. Sections 375.1070 to 375.1075 shall not apply to an insurer**
4 **organized under chapter 376, RSMo.**

375.1072. As used in sections 375.1070 to 375.1075, the following terms
2 mean:

3 (1) "Admitted assets", the amount thereof as of the last day of the most
4 recently concluded annual statement year, computed in the same manner as
5 admitted assets in [sections 376.300 to 376.309, RSMo, for life insurers and]
6 section 379.080, RSMo, for insurers other than life;

7 (2) "Aggregate amount of medium to lower quality obligations", the
8 aggregate statutory statement value thereof;

9 (3) "Institution", a corporation, a joint-stock company, an association, a
10 trust, a business partnership, a business joint venture or similar entity;

11 (4) "Medium to lower quality obligations", obligations which are rated
12 three, four, five and six by the Securities Valuation Office of the National
13 Association of Insurance Commissioners.

375.1075. 1. No domestic insurer shall acquire, directly or indirectly, any
2 medium or lower quality obligation of any institution if, after giving effect to any
3 such acquisition, the aggregate amount of all medium and lower quality
4 obligations then held by the domestic insurer would exceed twenty percent of its
5 admitted assets, and no more than ten percent of its admitted assets consists of
6 obligations rated four, five or six by the Securities Valuation Office, and no more
7 than three percent of its admitted assets consists of obligations rated five or six
8 by the Securities Valuation Office, and no more than one percent of its admitted
9 assets consists of obligations rated six by the Securities Valuation
10 Office. Attaining or exceeding the limit of any one category shall not preclude an
11 insurer from acquiring obligations in other categories subject to the specific and
12 multicategory limits.

13 2. The provisions of this section shall not prohibit a domestic insurer from
14 acquiring any obligations which it has committed to acquire if the insurer would
15 have been permitted to acquire that obligation pursuant to this section on the
16 date on which such insurer committed to purchase that obligation.

17 3. Notwithstanding the other provisions of this section, a domestic insurer
18 may acquire an obligation of an institution in which the insurer already has one
19 or more obligations, if the obligation is acquired in order to protect an investment
20 previously made in the obligations of the institution, provided that all such
21 acquired obligations shall not exceed one-half of one percent of the insurer's
22 admitted assets.

23 4. The board of directors of any domestic insurance company which
24 acquires or invests in, directly or indirectly, medium or lower quality obligations
25 of any institution shall adopt a written plan for the making of such
26 investments. The plan, in addition to guidelines with respect to the quality of the
27 obligations invested in, shall contain diversification standards including, but not
28 limited to, standards for issuer, industry, duration, liquidity and geographic
29 location.

30 5. No investments in excess of the limitations provided by this act shall
31 be recognized as an asset of the insurer pursuant to [section 376.307, RSMo, and]
32 section 379.080, RSMo.

376.170. All life insurance companies organized under the provisions of
2 sections 376.010 to 376.670 shall deposit with the director of the insurance
3 department, in addition to other amounts required by law to be deposited by life
4 insurance companies before such companies are permitted to engage in the
5 business of issuing policies of life insurance and annuity bonds, cash or securities
6 of the kind and type in which life insurance companies are required to invest
7 their funds under [section 376.300] **sections 376.291 to 376.307**, as same now
8 is or as same may be hereafter amended, in an amount sufficient to equal the net
9 value on all policies or annuity bonds hereafter issued by such companies, the
10 amount thereof to be determined by an evaluation made in accord with the
11 provisions of sections 376.010 to 376.670.

376.190. The director shall annually cause the registered policies and
2 annuity bonds of each company outstanding and in force to be carefully valued,
3 and whenever the total of the actual net value of such policies and annuity bonds
4 exceeds the market value of the securities on deposit, the company issuing such
5 policies or annuity bonds shall immediately deposit sufficient securities of the
6 same kind and type provided for in [section 376.300] **sections 376.291 to**

7 **376.307** to equal the net value of such policies and annuity bonds so that the
8 market value of the securities deposited shall always be equal to the actual net
9 value of the registered policies and annuity bonds issued by such company and
10 still in force[; provided, however, that bonds and other evidences of debt having
11 a fixed term and rate may be valued in accordance with the provisions of section
12 376.320].

376.280. 1. No joint stock or stock and mutual company formed under the
2 provisions of sections 376.010 to 376.670, or the laws of this state, for any
3 purpose mentioned in section 376.010, shall commence to do business or issue
4 policies unless upon an actual capital of at least six hundred thousand dollars and
5 a surplus of at least six hundred thousand dollars, nor shall any such company
6 commence to do any business unless the full amount of capital stock and surplus
7 named in its charter or articles of association has been paid in and invested in
8 such securities and in accordance with all the provisions as is provided for in
9 [section 376.300] **sections 376.291 to 376.307**, or as the same may be
10 subsequently amended.

11 2. In order to continue writing new business, any stock company organized
12 under the provisions of sections 376.010 to 376.670, or the laws of this state, for
13 any purpose mentioned in section 376.010, shall maintain an actual capital and
14 surplus in the amount required to commence business.

15 3. Any other provision of this section notwithstanding, a joint stock or
16 stock and mutual company licensed to do business in this state on August 13,
17 1982, may renew its license for business specified therein until December 31,
18 1984, by maintaining in lieu of the capital and surplus requirements an actual
19 capital and surplus of at least nine hundred thousand dollars.

20 4. No mutual company formed under the provisions of sections 376.010 to
21 376.670, or of the laws of this state, shall commence or continue to do any
22 business mentioned in section 376.010 until agreement, in writing, with such
23 company shall have been entered into by not less than one hundred persons for
24 assurance upon their own lives, or the lives of other persons for their benefit, nor
25 until it shall have received premiums on the same in cash, to an aggregate
26 amount of not less than six hundred thousand dollars and in addition shall have
27 a surplus of six hundred thousand dollars; provided further, that nothing herein
28 contained shall be so construed as to prohibit any such company from complying
29 with the provisions of sections 362.180 to 362.195, RSMo.

30 5. Any other provision of this section notwithstanding, a mutual company
31 licensed to do business in this state on August 13, 1982, may renew its license for

32 business specified therein until December 31, 1984, by maintaining in lieu of the
33 surplus requirement paid-in premiums in an aggregate amount of not less than
34 nine hundred thousand dollars.

35 6. Violation of any of the provisions of this section by any insurer is
36 grounds for the revocation of its certificate of authority by the director.

**376.291. Sections 376.291 to 376.307 shall apply only to investments
2 and investment practices of domestic insurers organized under the
3 provisions of this chapter. Sections 376.291 to 376.307 shall not apply to
4 separate accounts of an insurer except to the extent that the provisions
5 of section 376.309 so provide.**

**376.292. As used in sections 376.291 to 376.307, the following terms
2 mean:**

3 (1) "Acceptable collateral", as to securities lending repurchase and
4 reverse repurchase transactions, any financial assets of a type for which,
5 when taken as collateral by an insurer in such transactions, would
6 permit the subject securities or repurchase agreements, as the case may
7 be, to constitute admitted assets of the insurer under the relevant
8 statutory accounting principles promulgated from time to time by the
9 NAIC as adopted by the director;

10 (2) "Acceptable private mortgage insurance", insurance written by
11 a private insurer protecting a mortgage lender against loss occasioned
12 by a mortgage loan default and issued by a licensed mortgage insurance
13 company with an SVO "1" designation or a rating issued by a nationally
14 recognized statistical rating organization equivalent to an SVO "1"
15 designation that covers losses to an eighty percent loan-to-value ratio;

16 (3) "Accident and health insurance", protection that provides
17 payment of benefits for covered sickness or accidental injury, excluding
18 credit insurance, disability insurance, accidental death and
19 dismemberment insurance, and long-term care insurance;

20 (4) "Accident and health insurer", a licensed life or health insurer
21 or health service corporation whose insurance premiums and required
22 statutory reserves for accident and health insurance constitute at least
23 ninety-five percent of total premium considerations or total statutory
24 required reserves, respectively;

25 (5) "Admitted assets", assets permitted to be reported as admitted
26 assets on the statutory financial statement of the insurer most recently
27 required to be filed with the director but excluding assets of separate

28 accounts;

29 (6) "Affiliate", as to any person, another person that, directly or
30 indirectly through one or more intermediaries controls, is controlled by,
31 or is under common control with the person;

32 (7) "Asset-backed security", a security or other instrument,
33 excluding shares in a mutual fund, evidencing an interest in or the right
34 to receive payments from, or payable from distributions on an asset, a
35 pool of assets, or specifically divisible cash flows which are legally
36 transferred to a trust or another special purpose bankruptcy-remote
37 business entity on the following conditions:

38 (a) The trust or other business entity is established solely for the
39 purpose of acquiring specific types of assets or rights to cash flows,
40 issuing securities and other instruments representing an interest in or
41 right to receive cash flows from those assets or rights, and engaging in
42 activities required to service the assets or rights and any credit
43 enhancement or support features held by the trust or other business
44 entity; and

45 (b) The assets of the trust or other business entity consist solely
46 of interest bearing obligations or other contractual obligations
47 representing the right to receive payment from the cash flow from the
48 assets. However, the existence of credit enhancements, such as letters
49 of credit or guarantees or support features, such as swap agreements,
50 shall not cause a security or other instrument to be ineligible as an
51 asset-backed security;

52 (8) "Business entity", a sole proprietorship, limited liability
53 company, association, partnership, joint stock company, joint venture,
54 mutual fund, trust, joint tendency, or other similar form of business
55 organization, whether organized for-profit or not-for-profit;

56 (9) "Capital and surplus", the sum of the capital and surplus of the
57 insurer required to be shown on the statutory financial statement of the
58 insurer most recently required to be filed with the director;

59 (10) "Cash equivalents", short-term, highly rated, and highly liquid
60 investments or securities readily convertible to known amounts of cash
61 without penalty and so near maturity that they present insignificant
62 risk of change in value. Cash equivalents include government money
63 market mutual funds and class one money market mutual funds. For
64 purposes of this subdivision:

65 (a) "Short-term" means investments with a remaining term to
66 maturity of ninety days or less; and

67 (b) "Highly rated" means an investment rated "P-1" by Moody's
68 Investors Service, Inc., or "A-1" by Standard and Poor's division of The
69 McGraw Hill Companies, Inc., or its equivalent rating by a nationally
70 recognized statistical rating organization recognized by the SVO;

71 (11) "Class one bond mutual fund", a mutual fund that at all times
72 qualifies for investment using the bond class one reserve factor under
73 the Purpose and Procedures of the Securities Valuation Office or any
74 successor publication;

75 (12) "Class one money market mutual fund", a money market
76 mutual fund that at all times qualifies for investment using the bond
77 class one reserve factor under the Purpose and Procedures of the
78 Securities Valuation Office or any successor publication;

79 (13) "Code", this chapter and chapters 374, 375, and 382, RSMo;

80 (14) "Commercial mortgage loan", a loan secured by a mortgage
81 other than a residential mortgage loan;

82 (15) "Construction loan", a loan less than three years in term made
83 for financing the cost of construction of a building or other improvement
84 to real estate that is secured by the real estate;

85 (16) "Control", the possession, directly or indirectly, of the power
86 to direct or cause the direction of the management and policies of a
87 person, whether through the ownership of voting securities, by contract,
88 other than a commercial contract for goods or nonmanagement service,
89 or otherwise, unless the power is the result of an official position with
90 or corporate office held by the person. Control shall be presumed to
91 exist if a person, directly or indirectly, owns, controls, holds with power
92 to vote, or holds proxies representing ten percent or more of the voting
93 securities of another person. This presumption may be rebutted by a
94 showing that control does not exist in fact. The director may determine
95 after furnishing all interested persons notice and an opportunity to be
96 heard and making specific findings of fact to support the determination
97 that control exists in fact, notwithstanding the absence of a presumption
98 to that effect;

99 (17) "Credit tenant loan", a mortgage loan which is made primarily
100 in reliance on the credit standing of a major tenant, structured with an
101 assignment of the rental payments to the lender with real estate pledged

102 as collateral in the form of a first lien;

103 (18) "Direct" or "directly", in connection with an obligation, the
104 designated obligor primarily liable on the instrument representing the
105 obligation;

106 (19) "Dollar roll transaction", two simultaneous transactions with
107 different settlement dates no more than ninety-six days apart so that in
108 the transaction with the earlier settlement date an insurer sells to a
109 business entity, and in the other transaction the insurer is obligated to
110 purchase, from the same business entity, substantially similar securities
111 of the following types:

112 (a) Asset-backed securities issued, assumed or guaranteed by the
113 Government National Mortgage Association, the Federal National
114 Mortgage Association, or the Federal Home Loan Mortgage Corporation
115 or their respective successors; and

116 (b) Other asset-backed securities referred to in section 106 of Title
117 I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C.
118 77r-1), as amended;

119 (20) "Domestic jurisdiction", the United States, Canada, any state,
120 any province of Canada, or any political subdivision of the foregoing;

121 (21) "Equity interest", any of the following that are not rated
122 credit instruments:

123 (a) Common stock;

124 (b) Preferred stock;

125 (c) Trust certificate;

126 (d) Equity investment in an investment company other than a
127 money market mutual fund or a class one bond mutual fund;

128 (e) Investment in a common trust fund of a bank regulated by a
129 federal or state agency;

130 (f) An ownership interest in mineral, oil, or gas to which the
131 rights have been separated from the underlying fee interest in the real
132 estate where the mineral, oil, or gas are located;

133 (g) Instruments which are mandatory, or at the option of the
134 issuer, convertible to equity;

135 (h) Limited partnership interest and those general partnership
136 interests authorized under subdivision (4) of section 376.294;

137 (i) Member interests in limited liability companies;

138 (j) Warrants or other rights to acquire equity interests that are

139 created by the person that owns or would issue the equity to be
140 acquired; or

141 (k) Instruments that would be rated credit instruments except for
142 the provisions under subdivision (48) of this section;

143 (22) "Foreign currency", currency other than that of a domestic
144 jurisdiction;

145 (23) (a) "Foreign investment", an investment in a foreign
146 jurisdiction or an investment in a person, real estate, or asset domiciled
147 in a foreign jurisdiction that is substantially of the same type as those
148 eligible for investment under this chapter other than under section
149 376.304. An investment shall not be deemed foreign if the issuing person,
150 qualified primary credit source, or qualified guarantor is a domestic
151 jurisdiction or a person domiciled in a domestic jurisdiction unless:

152 a. The issuing person is a shell business entity; and

153 b. The investment is not assumed, accepted, guaranteed, or
154 insured or otherwise backed by a domestic jurisdiction, or a person that
155 is not a shell business entity domiciled in a domestic jurisdiction;

156 (b) For purposes of this definition:

157 a. "Shell business entity" means a business entity having no
158 economic substance except as a vehicle for owning interests in assets
159 issued, owned, or previously owned by a person domiciled in a foreign
160 jurisdiction;

161 b. "Qualified guarantor" means a guarantor against which an
162 insurer has a direct claim for full and timely payment, evidenced by a
163 contractual right for which an enforcement action can be brought in a
164 domestic jurisdiction;

165 c. "Qualified primary credit score" means the credit score to which
166 an insurer looks for payment as to an investment and against which an
167 insurer has a direct claim for full and timely payment evidenced by a
168 contractual right for which an enforcement action can be brought in a
169 domestic jurisdiction;

170 (24) "Foreign jurisdiction", a jurisdiction other than a domestic
171 jurisdiction;

172 (25) "Government money market mutual fund", a money market
173 mutual fund that at all times:

174 (a) Invests only in obligations issued, guaranteed, or insured by
175 the federal government of the United States or collateralized repurchase

176 agreements composed of these obligations; and

177 (b) Qualifies for investment without a reserve under the Purposes
178 and Procedures of the Securities Valuation Office or any successor
179 publication;

180 (26) "Government sponsored enterprise", a:

181 (a) Government agency; or

182 (b) Corporation, limited liability company, association,
183 partnership, joint stock company, joint venture, trust, or other entity or
184 instrumentality organized under the laws of any domestic jurisdiction
185 to accomplish a public policy or other governmental purpose;

186 (27) "Guaranteed" or "insured", in connection with an obligation
187 acquired under this chapter, the guarantor or insurer has agreed to:

188 (a) Perform or insure the obligation of the obligor or purchase the
189 obligation; or

190 (b) Be unconditionally obligated until the obligation is repaid to
191 maintain in the obligor a minimum net worth, fixed charge coverage,
192 stockholders' equity or sufficient liquidity to enable the obligor to pay
193 the obligation in full;

194 (28) "High grade investment", a rated credit instruments rated "1",
195 "2", "P1", "P2", "PSF1", or "PSF2" by the SVO;

196 (29) "Investment company", an investment company as defined in
197 section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1), as
198 amended, and a person described in section 3(c) of that Act;

199 (30) "Investment company series", an investment portfolio of an
200 investment company that is organized as a series company and to which
201 assets of the investment company have been specifically allocated;

202 (31) "Investment subsidiary", a subsidiary of an insurer engaged
203 or organized to engage exclusively in the ownership and management of
204 assets authorized as investments for the insurer if such subsidiary limits
205 its investment in any asset so that its investments will not cause the
206 amount of the total investment of the insurer to exceed any of the
207 investment limitation or avoid any other provisions of this chapter
208 applicable to the insurer. As used in this subdivision, the total
209 investment insurer shall include:

210 (a) Direct investment by the insurer in an asset; and

211 (b) The insurer's proportionate share of an investment in an asset
212 by an investment subsidiary of the insurer which shall be calculated by

213 multiplying the amount of the subsidiary's investment by the percentage
214 of the insurer's ownership interest in the subsidiary;

215 (32) "Investment strategy", the techniques and methods used by an
216 insurer to meet its investment objectives, such as active bond portfolio
217 management, passive bond portfolio management, interest rate
218 anticipation, growth investing, and value investing;

219 (33) "Letter of credit", a clean, irrevocable, and unconditional
220 letter of credit issued or confirmed by and payable and presentable at
221 a financial institution on the list of financial institutions meeting the
222 standards for issuing letters of credit under the Purposes and
223 Procedures of the Securities Valuation Office or any successor
224 publication. To constitute applicable collateral for the purposes of
225 section 376.303, a letter of credit shall have an expiration date beyond
226 the term of the subject transaction;

227 (34) "Limited liability company", a business organization,
228 excluding partnerships and ordinary business corporations, organized
229 or operating under the laws of the United States or any state thereof
230 that limits the personal liability of investors to the equity investment of
231 the investor in the business entity;

232 (35) "Lower grade investment", a rated credit instrument rated "4",
233 "5", "6", "P4", "P5", "P6", "PSF4", "PSF5", or "PSF6" by the SVO;

234 (36) "Market value":

235 (a) As to cash and credit, the amounts thereof; and

236 (b) As to a security as of any date, the price for the security in
237 that date obtained from a generally recognized source or the most recent
238 quotation from a source, or to the extent no generally recognized source
239 exists, the price for the security reasonably as determined by the insurer
240 plus accrued but unpaid income thereon to the extent not included in
241 the price as of that date;

242 (37) "Medium grade investment", a rated credit instrument rated
243 "3", "P3", or "PSF3" by the SVO;

244 (38) "Money market mutual fund", a mutual fund that meets the
245 conditions of 17 C.F.R. 270.2a-7 under the Investment Company Act of
246 1940 (15 U.S.C. 80a-1 et seq.), as amended or renumbered;

247 (39) "Mortgage loan", an obligation secured by a mortgage, deed
248 of trust, trust deed, or other consensual lien on real estate;

249 (40) "Multilateral development bank", an international

250 development organization of which the United States is a member;

251 (41) "Mutual fund", an investment company or in the case of an
252 investment company that is organized as a series company, an
253 investment company series, that in either case is registered with the
254 United States Securities and Exchange Commission under the
255 Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended;

256 (42) "NAIC", the National Association of Insurance Commissioners;

257 (43) "Obligation", a bond, note, debenture, trust certificate,
258 including an equipment trust certificate, production payment, negotiable
259 bank certificate of deposit, bankers' acceptance, credit tenant loan, loan
260 secured by financing net leases, and other evidence of indebtedness for
261 the payment of money, or participations, certificates, or other evidence
262 of an interest in any of the foregoing, whether constituting a general
263 obligation of the issuer or payable only out of certain revenues or
264 certain funds pledged or otherwise dedicated for payment;

265 (44) "Person", an individual, a business entity, a multilateral
266 development bank, or a government or quasi-government body, such as
267 a political subdivision or a government sponsored enterprise;

268 (45) "Preferred stock", preferred, preference, or guaranteed stock
269 of a business entity authorized to issue the stock that has a preference
270 in liquidation over the common stock of the business entity;

271 (46) "Qualified business entity", a business entity that is:

272 (a) An issuer of obligations or preferred stock that are rated "1"
273 or "2" by the SVO or an issuer of obligations, preferred stock, or
274 derivative instruments that are rated the equivalent of "1" or "2" by the
275 SVO or the equivalent by a nationally recognized statistical rating
276 organization recognized by the SVO;

277 (b) A primary dealer in the United States government securities
278 recognized by the Federal Reserve Bank of New York; or

279 (c) With respect to section 376.303, an affiliate of an entity that is
280 a qualified business entity under paragraph (a) or (b) of this subdivision
281 whose arrangement with the insurer is guaranteed by the affiliated
282 entity that is a qualified business entity under paragraph (a) or (b) of
283 this subdivision;

284 (47) "Rated credit instrument":

285 (a) An obligation or other instrument which gives its holder a
286 contractual right to receive cash or another rated credit instrument

287 from another entity if the instrument:

288 a. Is rated or required to be rated by the SVO;

289 b. In the case of an instrument with a maturity of three hundred
290 ninety-seven days or less, is issued, guaranteed, or insured by an entity
291 that is rated by or another instrument of such entity is rated by the SVO
292 or by a nationally recognized statistical rating organization recognized
293 by the SVO;

294 c. In the case of an instrument with a maturity of ninety days or
295 less, is issued, assumed, accepted, guaranteed, or insured by a qualified
296 bank;

297 d. Is a share of a class one bond mutual fund; or

298 e. Is a share of a money market mutual fund;

299 (b) "Rated credit instrument" shall not mean:

300 a. An instrument that is mandatorily, or at the option of the
301 issuer, convertible to an equity interest; or

302 b. A security that has a par value and whose terms provide that
303 the issuer's net obligation to repay all or part of the security's par value
304 is determined by reference to the performance of an equity, a
305 commodity, a foreign currency, or an index of equities, commodities,
306 foreign currencies, or combination thereof;

307 (48) "Real estate":

308 (a) Real property;

309 (b) Interests in real property, such as leaseholds, mineral, oil, and
310 gas that have not been separated from the underlying fee interest;

311 (c) Improvements and fixtures located on or in real property; and

312 (d) The seller's equity in a contract providing for a deed of real
313 estate;

314 As to a mortgage on a leasehold estate, real estate shall include the
315 leasehold estate only if it has an unexpired term, including renewal
316 options exercisable at the option of the lessee extending beyond the
317 scheduled maturity date of the obligation that is secured by a mortgage
318 on a leasehold estate by a period equal to at least twenty percent of the
319 original term of the obligation or ten years, whichever is greater;

320 (49) "Repurchase transaction", a transaction in which an insurer
321 purchases securities from a business entity that is obligated to
322 repurchase the purchased securities or substantially the same securities
323 from the insurer at a specified price within a specified period of time or

324 on demand;

325 (50) "Required liabilities", total liabilities required to be reported
326 on the statutory financial statement of the insurer most recently
327 required to be filed with the director;

328 (51) "Residential mortgage loan", a loan primarily secured by a
329 mortgage on real estate improved with a one-to-four family residence;

330 (52) "Reverse repurchase transaction", a transaction in which an
331 insurer sells substantially the same securities to a business entity and
332 is obligated to repurchase the sold securities or substantially the same
333 securities from the business entity at a specified price within a specified
334 period of time or upon demand;

335 (53) "Secured location", the contiguous real estate owned by one
336 person;

337 (54) "Securities lending transaction", a transaction in which
338 securities are loaned by an insurer to a business entity that is obligated
339 to return the loaned securities or substantially the same securities to the
340 insurer within a specified period of time or upon demand;

341 (55) "Series company", an investment company that is organized
342 as series company, as defined in Rule 18f-2 under the Investment
343 Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended;

344 (56) "Sinking fund stock", preferred stock that:

345 (a) Is subject to a mandatory sinking fund or similar arrangement
346 that will provide for the redemption or open market purchase of the
347 entire issue over a period not longer than forty years from the date of
348 acquisition; and

349 (b) Provides for mandatory sinking fund installments or open
350 market purchases commencing not more than ten and one-half years
351 from the date of issue with the sinking fund installments providing for
352 the purchase or redemption on a cumulative basis commencing ten years
353 from the date of issue of at least two and one-half percent per year of the
354 original number of shares of that issue of preferred stock;

355 (57) "Special rated credit instrument", a rated credit instrument
356 that is:

357 (a) Structured so that if it is held until retired by or on behalf of
358 the issuer, its rate of return based on its purchase cost and any cash
359 flow stream possible under the structure of the transaction may become
360 negative due to reasons other than the credit risk associated with the

361 issuer of the instrument; however, a rated credit instrument shall not be
362 a special rated credit instrument under this paragraph if it is:

363 a. A share in a class one bond mutual fund;

364 b. An instrument other than an asset-backed security with
365 payments of par value fixed as to an amount and timing or callable but
366 in any event payable only at par value or greater and interest or
367 dividend cash flows that are based on a fixed or variable rate
368 determined by reference to a specified rate or index;

369 c. An instrument other than an asset-backed security that has a
370 par value and is purchased at a price no greater than one hundred ten
371 percent of par;

372 d. An instrument, including an asset-backed security, whose rate
373 of return would become negative only as a result of prepayment due to
374 casualty, condemnation, or economic obsolescence of collateral or
375 change of law;

376 e. An asset-backed security that relies on collateral that meets the
377 requirements of subparagraph b. of this paragraph and the par value of
378 which collateral:

379 (i) Is not permitted to be paid sooner than one-half of the
380 remaining term to maturity from the date of acquisition;

381 (ii) Is permitted to be paid prior to maturity only at a premium
382 sufficient to provide a yield to maturity for the investment, considering
383 the amount of prepaid and reinvestment rates at the time of early
384 repayment, at least equal to the yield to maturity of the initial
385 investment; or

386 (iii) Is permitted to be paid prior to maturity at a premium at
387 least equal to the yield of a treasury issue of comparable remaining life;
388 or

389 f. An asset-backed security that relies on cash flow from assets
390 that are not prepayable at any time at par but is not otherwise governed
391 by subparagraph e. of this paragraph if the asset-backed security has a
392 par value reflecting principal payments to be received if held until
393 retired by or on behalf of the issuer and is purchased at a price no
394 greater than one hundred five percent of such par amount;

395 (b) An asset-backed security that:

396 a. Relies on cash flow from assets that are prepayable at par at
397 any time;

398 **b. Does not make payments of par that are fixed as to amount and**
399 **timing; and**

400 **c. Has a negative rate of return at the time of acquisition if a**
401 **prepayment threshold assumption is used with such prepayment**
402 **threshold assumption defined as either:**

403 **(i) Two times the prepayment expectation reported by a**
404 **recognized publicly available source as being the median of expectations**
405 **contributed by broker dealers or other entities except insurers engaged**
406 **in the business of selling or evaluating such securities or assets. At the**
407 **insurer's election, the prepayment expectation used in this calculation**
408 **shall be the prepayment expectation for pass-through securities of the**
409 **Federal National Mortgage Association, the Federal Home Loan**
410 **Mortgage Corporation, the Government National Mortgage Association,**
411 **or for other assets of the same type of assets that underlie the asset-**
412 **backed security in a gross weighted average coupon comparable to the**
413 **gross weighted average coupon of the assets that underlie the asset-**
414 **backed security; or**

415 **(ii) Another prepayment threshold assumption specified by the**
416 **director by regulation;**

417 **(c) For purposes of paragraph (b) of this subdivision, if the asset-**
418 **backed security is purchased in combination with one or more other**
419 **asset-backed securities that are supported by identical underlying**
420 **collateral, the insurer may calculate the rate of return for these specific**
421 **combined asset-backed securities in combination. The insurer shall**
422 **maintain documentation demonstrating that such securities were**
423 **acquired and are continuing to be held in combination;**

424 **(58) "State", a state, territory, or possession of the United States,**
425 **District of Columbia, or the Commonwealth of Puerto Rico;**

426 **(59) "Substantially the same securities", securities that meet all**
427 **criteria for substantially the same securities specified in the NAIC**
428 **Accounting Practices and Procedures Manual, as amended, as adopted**
429 **by the director;**

430 **(60) "Subsidiary", as to any person, an affiliate controlled by such**
431 **person, directly or indirectly, through one or more intermediaries;**

432 **(61) "SVO", the Securities Valuation Office of the NAIC or any**
433 **successor office established by the NAIC;**

434 **(62) "Unrestricted surplus", the amount by which total admitted**

435 assets exceed one hundred and twenty-five percent of the insurer's
436 required liabilities.

376.293. 1. (1) Insurers may acquire, hold, or invest in
2 investments or engage in investment practices as set forth in this
3 chapter or section 375.345, RSMo. Insurers may also acquire, hold, or
4 invest in investments not conforming to the requirements of this section
5 that are not otherwise prohibited by this chapter or section 375.345,
6 RSMo, provided however, that investments not conforming to this
7 section shall not be admitted assets. The provisions and definitions of
8 terms of section 375.345, RSMo, related to derivative transactions shall
9 also apply to investments under this chapter.

10 (2) Subject to subdivision (3) of this subsection, an insurer shall
11 not acquire or hold an investment as an admitted asset unless at the
12 time of acquisition:

13 (a) It is eligible for the payment or accrual of interest or discount,
14 whether in cash or other forms of income or securities, eligible to
15 receive dividends or other distributions or is otherwise income
16 producing; or

17 (b) It is acquired under section 375.345, RSMo, subsection 3 of
18 section 376.302, section 376.303 or 376.307 or under the authority of
19 sections of the code other than sections 376.291 to 376.307.

20 (3) An insurer may acquire or hold as admitted assets investments
21 that do not otherwise qualify, as provided in sections 376.291 to 376.307,
22 if this insurer has not acquired the assets investments for the purpose
23 of circumventing any limitations contained in sections 376.291 to 376.307
24 and if the insurer acquires the investments in the following
25 circumstances and complies with the provisions of sections 376.291 to
26 376.307 as to the investments:

27 (a) As a payment on account of existing indebtedness or in
28 connection with the refinancing, restructuring, or workout of existing
29 indebtedness, if taken to protect the insurer's interest in that
30 investment;

31 (b) As realization of collateral for indebtedness;

32 (c) In connection with an otherwise qualified investment or
33 investment practice as interest on, or a dividend, or other distribution
34 related to the investment or investment practice or in connection with
35 the refinancing of the investment. In each case, no additional or only

36 nominal consideration is necessary;

37 (d) Under lawful and bona fide agreement of recapitalization or
38 voluntary or involuntary reorganization in connection with an
39 investment held by the insurer; or

40 (e) Under a bulk reinsurance, merger, or consolidation
41 transaction approved by the director if the assets constitute admissible
42 investments for the ceding, merged, or consolidated companies.

43 (4) An investment or portion of an investment acquired by an
44 insurer under subdivision (3) of this subsection shall become a
45 nonadmitted asset three years, or five years in the case of mortgage
46 loans and real estate, from the date of its acquisition unless within that
47 period the investment has become a qualified investment under a section
48 of this chapter other than subdivision (3) of this subsection, but an
49 investment acquired under an agreement of bulk reinsurance, merger,
50 or consolidation may be qualified for a longer period if so provided in
51 the plan for reinsurance, merger, or consolidation as approved by the
52 director. Upon application by the insurer and a showing that the
53 nonadmission of an asset held under subdivision (3) of this subsection
54 would materially injure the interests of the insurer, the director may
55 extend the period of admissibility for an additional, reasonable period
56 of time.

57 (5) Except as provided in subdivisions (6) and (8) of this
58 subsection, an investment shall qualify under this chapter if on the date
59 the insurer committed to acquire the investment or on the date of its
60 acquisition it would have qualified under this chapter. For the purposes
61 of determining limitations contained in this chapter, an insurer shall
62 give appropriate recognition to any commitments to acquire
63 investments.

64 (6) (a) An investment held as an admitted asset by an insurer on
65 August 28, 2007, which qualified under this chapter, or chapter 375,
66 RSMo, shall remain qualified as an admitted asset.

67 (b) Each specific transaction constituting an investment practice
68 of the type described in this chapter that was lawfully entered into by
69 an insurer and was in effect on August 28, 2007, shall continue to be
70 permitted under this chapter until its expiration or termination under
71 its terms, including any expiration or termination after an extension
72 under its terms.

73 **(7) Unless otherwise specified, an investment limitation computed**
74 **on the basis of an insurer's admitted assets or capital and surplus shall**
75 **relate to the amount required to be shown on the statutory balance sheet**
76 **of the insurer most recently required to be filed, annual or last quarter,**
77 **with the director. Solely for the purposes of computing any limitation**
78 **based upon admitted assets, the insurer shall deduct from the amount**
79 **of its admitted assets the amount of the liability recorded on such**
80 **statutory balance sheet for:**

81 **(a) The return of acceptable collateral received in a reverse**
82 **repurchase transaction or a securities lending transaction;**

83 **(b) Cash received in a dollar roll transaction; and**

84 **(c) The amount reported as borrowed money in such statutory**
85 **balance sheet to the extent not included in paragraph (b) and this**
86 **paragraph of this subdivision.**

87 **(8) An investment qualified, in whole or in part, for acquisition or**
88 **holding as an admitted asset may be qualified or requalified at the time**
89 **of acquisition or a later date, in whole or in part, under any section if**
90 **the relevant conditions contained in the other section are satisfied at**
91 **the time of the qualification or requalification.**

92 **(9) An insurer shall maintain documentation demonstrating that**
93 **investments were acquired in accordance with this chapter.**

94 **(10) An insurer shall not enter into an agreement to purchase**
95 **securities in advance of their issuance for resale to the public as part of**
96 **a distribution of the securities by the issuer or otherwise guarantee the**
97 **distribution, except that an insurer may acquire privately placed**
98 **securities with registration rights.**

99 **(11) Notwithstanding the provisions of this chapter, the director,**
100 **for good cause, may order an insurer to nonadmit, limit, dispose of,**
101 **withdraw from, or discontinue an investment or investment**
102 **practice. The authority of the director under this subsection is in**
103 **addition to any other authority of the director.**

104 **2. (1) Within three months after August 28, 2007, an insurer's**
105 **board of directors shall adopt a written plan for acquiring and holding**
106 **investments and for engaging in investment practices that specifies**
107 **guidelines as to the quality, maturity, and diversification of the**
108 **investments and other specifications, including investment strategies**
109 **intended to assure that the investments and investment practices are**

110 appropriate for the business conducted by the insurer, its liquidity
111 needs, and its capital and surplus. The board shall review and assess
112 the insurer's technical investment and administrative capabilities and
113 expertise before adopting a written plan concerning an investment
114 strategy or investment practice.

115 (2) Investments acquired and held under this chapter and section
116 375.345, RSMo, shall be acquired and held under the supervision and
117 direction of the board of directors of the insurer. The board of directors
118 shall evidence by formal resolution at least annually that it has
119 determined whether all investments have been made in accordance with
120 delegations, standards, limitations, and investment objectives prescribed
121 by the board or a committee of the board charged with the responsibility
122 to direct its investments.

123 (3) On no less than a quarterly basis and more often if deemed
124 appropriate, an insurer's board of directors or committee of the board
125 of directors shall:

126 (a) Receive and review a summary report on the insurer's
127 investment portfolio, its investment activities, and investment practices
128 engaged in under delegated authority in order to determine whether the
129 investment activity of the insurer is consistent with its written plan; and

130 (b) Review and revise, as appropriate, the written plan.

131 (4) In discharging its duties under this section, the board of
132 directors shall require that records of any authorization or approvals,
133 other documentation as the board may require, and reports of any action
134 taken under authority delegated under the plan referred to in subsection
135 1 of this section shall be made available on a regular basis to the board
136 of directors.

137 (5) In discharging their duties under this section, the directors of
138 an insurer shall perform their duties in good faith and with that degree
139 of care that ordinarily prudent individuals in like positions would use
140 under similar circumstances.

141 (6) If an insurer does not have a board of directors, all references
142 to the board of directors in sections 376.291 to 376.307 shall be deemed
143 to be references to the governing body of the insurer having authority
144 equivalent to that of a board of directors.

376.294. 1. An insurer shall not directly or indirectly:

2 (1) Invest in an obligation or security or make a guarantee for the

3 benefit of or in favor of an officer or director of the insurer except as
4 provided in section 376.295;

5 (2) Invest in an obligation or security, make a guarantee for the
6 benefit of or in favor of, or make other investments in a business entity
7 of which ten percent or more of the voting securities or equity interests
8 are owned directly or indirectly by or for the benefit of one or more
9 officers or directors in the insurer except under a transaction entered
10 into in compliance with section 382.195, RSMo, or provided in section
11 376.295;

12 (3) Engage on its own behalf or through one or more affiliates in
13 a transaction or series of transactions designed to evade the
14 prohibitions of section 375.345, RSMo, and sections 376.291 to 376.307, or
15 section 376.311;

16 (4) Invest in a partnership as a general partner, except that an
17 insurer may make an investment as a general partner:

18 (a) If all other partners in the partnership are subsidiaries of the
19 insurer or other insurance company affiliates of the insurer;

20 (b) For the purpose of:

21 a. Meeting cash calls committed to prior to August 28, 2007;

22 b. Completing those specific projects or activities of the
23 partnership in which the insurer was a general partner as of August 28,
24 2007, that had been undertaken as of that date; or

25 c. Making capital improvements to property owned by the
26 partnership on August 28, 2007, if the insurer was a general partner as
27 of that date; or

28 (c) In accordance with subdivision (3) of subsection 1 of section
29 376.293; or

30 (5) Invest or lend its funds upon the security of shares of its own
31 stock, except as authorized by other provisions of this
32 chapter. However, no such shares shall be admitted assets of the
33 insurer.

34 2. Subdivision (4) of subsection 1 of this section shall not prohibit
35 a subsidiary or other affiliate of the insurer from becoming a general
36 partner.

376.295. 1. (1) Except as provided in subsection 2 of this section,
2 an insurer shall not without written approval of the director, directly or
3 indirectly:

4 **(a) Make a loan to or other investment in an officer or director of**
5 **the insurer or a person in which the officer has any direct or indirect**
6 **financial interest;**

7 **(b) Make a guarantee for the benefit of or in favor of an officer or**
8 **director of the insurer or a person in which the officer or director has**
9 **any direct or indirect financial interest; or**

10 **(c) Enter into an agreement for the purchase or sale of property**
11 **from or to an officer or director of the insurer or a person in which the**
12 **officer or director has any direct or indirect financial interest.**

13 **(2) For purposes of this section, an officer or director shall not be**
14 **deemed to have a financial interest by reason of an interest that is held**
15 **directly or indirectly through the ownership of equity interests**
16 **representing less than two percent of all outstanding equity interest**
17 **issued by a person that is a party to the transaction or solely by reason**
18 **of that individual's position as a director or officer of a person that is a**
19 **party to the transaction.**

20 **(3) This subsection shall not permit an investment that is**
21 **prohibited by section 376.294.**

22 **(4) This subsection shall not apply to a transaction between an**
23 **insurer and any of its subsidiaries or affiliates that is entered into in**
24 **compliance with chapter 382, RSMo, other than a transaction between**
25 **an insurer and its officer or director.**

26 **2. An insurer may, without the prior written approval of the**
27 **director make:**

28 **(1) Policy loans in accordance with the terms of the policy or**
29 **contract and section 376.306;**

30 **(2) Advances to officers or directors for expenses reasonably**
31 **expected to be incurred in the ordinary course of the insurer's business**
32 **or guarantees associated with credit or charge cards issued or credit**
33 **extended for the purpose of financing these expenses;**

34 **(3) Loans secured by the principal residence of an existing or new**
35 **officer of the insurer made in connection with the officer's relocation at**
36 **the insurer's request if the loans comply with the requirements of**
37 **section 376.302 and the terms and conditions otherwise are the same as**
38 **those generally available from unaffiliated third parties;**

39 **(4) Loans and advances to officers or directors made in**
40 **compliance with state or federal law specifically related to the loans and**

41 advances by a regulated noninsurance subsidiary or affiliate of the
42 insurer in the ordinary course of business and on terms no more
43 favorable than available to other customers of the entity; and

44 (5) Secured loans to an existing or new officer of the insurer made
45 in connection with the officer's relocation at the insurer's request, if the
46 loans:

47 (a) Do not have a term exceeding two years;

48 (b) Are required to finance mortgage loans outstanding at the
49 same time on the prior and new residences of the officer;

50 (c) Do not exceed an amount equal to the equity of the officer in
51 the prior residence;

52 (d) Are required to be fully repaid upon the earlier of the end of
53 the two-year period or the sale of the prior residence.

376.296. The value or amount of an investment acquired or held
2 or an investment practice engaged in under this chapter, unless
3 otherwise specified in this code, shall be the value at which assets of an
4 insurer are required to be reported for statutory accounting purposes
5 as determined in accordance with procedures prescribed in published
6 accounting and valuation standards of the NAIC, including the Purposes
7 and Procedures of the Securities Valuation Office, the Valuation of
8 Securities Manual, the Accounting Practices and Procedures Manual, the
9 Annual Statement Instructions, or any successor valuation procedures
10 officially adopted by the NAIC.

376.297. 1. (1) Except as otherwise specified in this chapter, an
2 insurer shall not acquire an investment directly or indirectly through
3 an investment subsidiary if, as a result of and after giving effect to the
4 investment, the insurer would hold more than three percent of its
5 admitted assets in the investments of all kinds issued, assumed,
6 accepted, insured, or guaranteed by a single person, or five percent of
7 its admitted assets in investments in the voting securities of a
8 depository institution or any company that controls the institution.

9 (2) The three percent limitation described in subdivision (1) of
10 this subsection shall not apply to the aggregate amounts insured by a
11 single financial guaranty insurer with the highest generic rating issued
12 by a nationally recognized statistical rating organization.

13 (3) Asset-backed securities shall not be subject to the limitations
14 of subdivision (1) of this subsection; however, an insurer shall not

15 acquire an asset-backed security if as a result of and after giving effect
16 to the investment the aggregate amount of asset-backed securities
17 secured by or evidencing an interest in a single asset or single pool of
18 assets held by a trust or other business entity then held by the insurer
19 would exceed three percent of its admitted assets.

20 2. (1) An insurer shall not acquire directly or indirectly through
21 an investment subsidiary an investment under sections 376.298, 376.301,
22 and 376.304, or counterparty exposure under subdivision (6) of
23 subsection 2 of section 375.345, RSMo, if as a result of and after giving
24 effect to the investment:

25 (a) The aggregate amount of medium and lower grade investments
26 then held by the insurer would exceed twenty percent of its admitted
27 assets;

28 (b) The aggregate amount of lower grade investments then held
29 by the insurer would exceed ten percent of its admitted assets;

30 (c) The aggregate amount of investments rated "5" or "6" by the
31 SVO then held by the insurer would exceed three percent of its admitted
32 assets;

33 (d) The aggregate amount of investments rated "6" by the SVO
34 then held by the insurer would exceed one percent of its admitted assets;

35 or

36 (e) The aggregate amount of lower grade investments then held
37 by the insurer that receive cash income less than the equivalent yield for
38 treasury issues with a comparative average life would exceed one
39 percent of its admitted assets.

40 (2) An insurer shall not acquire directly or indirectly through an
41 investment subsidiary an investment under sections 376.298, 376.301, and
42 376.304, or counterparty exposure under subdivision (6) of subsection 2
43 of section 375.345, RSMo, if as a result of and after giving effect to the
44 investment:

45 (a) The aggregate amount of medium and lower grade investments
46 issued, assumed, accepted, guaranteed, or insured by any one person or
47 as to asset-backed securities secured by or evidencing an interest in a
48 single asset or pool of assets then held by the insurer would exceed one
49 percent of its admitted assets; or

50 (b) The aggregate amount of lower grade investments issued,
51 assumed, accepted, guaranteed, or insured by any one person or as to

52 asset-backed securities secured by or evidencing an interest in a single
53 asset or pool of assets then held by the insurer would exceed one-half of
54 one percent of its admitted assets.

55 (3) If an insurer attains or exceeds the limit of any one rating
56 category referred to in this subsection, the insured shall not thereby be
57 precluded from acquiring investments in other rating categories subject
58 to the specific and multi-category limits applicable to those investments.

59 3. An insurer shall not acquire directly or indirectly through an
60 investment subsidiary a Canadian investment authorized by this
61 chapter, if as a result of and after giving effect to the investment, the
62 aggregate amount of these investments then held by the insurer would
63 exceed forty percent of its admitted assets or if the aggregate amount of
64 Canadian investments not acquired under subsection 2 of section 376.298
65 then held by the insurer would exceed twenty-five percent of its
66 admitted assets. However, as to an insurer that is authorized to do
67 business in Canada or that has outstanding insurance, annuity, or
68 reinsurance contracts on lives or risks resident or located in Canada and
69 denominated in Canadian currency, the limitations of this section shall
70 be increased by the greater of:

71 (1) The amount the insurer is required by Canadian law to invest
72 in Canada or to be denominated in Canadian currency; or

73 (2) One hundred fifteen percent of the amount of its reserves and
74 other obligations under contracts on lives or risks resident or located in
75 Canada.

376.298. 1. Subject to the limitations of subsection 6 of this
2 section and subsection 2 of section 376.297, except for subdivision (4) of
3 subsection 1 of section 376.297, an insurer may acquire rated credit
4 instruments issued, assumed, guaranteed or issued by:

5 (1) The United States; or

6 (2) A government sponsored enterprise of the United States if the
7 instruments of the government sponsored enterprise are assumed,
8 guaranteed, or insured by the United States or are otherwise backed or
9 supported by the full faith and credit clause of the United States.

10 2. Subject to the limitations of subdivision (6) of this section and
11 subsection 2 of section 376.297, an insurer may acquire rated credit
12 instruments issued, assumed, guaranteed, or insured by:

13 (1) Canada; or

14 **(2) A government sponsored enterprise of Canada if the**
15 **instruments of the government sponsored enterprise are assumed,**
16 **guaranteed, or insured by Canada or are otherwise backed or supported**
17 **by the full faith and credit clause of Canada.**

18 **An insurer shall not acquire an instrument under this subsection if as**
19 **a result of and after giving effect to the investment the aggregate**
20 **amount of investments then held by the insurer under this subsection**
21 **would exceed forty percent of its admitted assets.**

22 **3. Subject to the limitations of subsection 6 of this section and**
23 **subsection 2 of section 376.297, an insurer may acquire rated credit**
24 **instruments excluding asset-backed securities:**

25 **(1) Issued by a government money market mutual fund, a class**
26 **one money market mutual fund, or a class one bond mutual fund;**

27 **(2) Issued, assumed, guaranteed, or insured by a government**
28 **sponsored enterprise of the United States other than those eligible**
29 **under subsection 1 of this section;**

30 **(3) Issued, assumed, guaranteed, or insured by a state if the**
31 **instruments are general obligations of the state; or**

32 **(4) Issued by a multilateral development bank.**

33 **An insurer shall not acquire an instrument of any one fund, any one**
34 **enterprise or entity, or any one state under this subsection if as a result**
35 **of and after giving effect to the investment the aggregate amount of**
36 **investments then held by the insurer in any one fund, enterprise, entity,**
37 **or state under this subsection would exceed ten percent of its admitted**
38 **assets.**

39 **4. Subject to the limitations of subsection 6 of this section and**
40 **section 376.297, an insurer may acquire preferred stocks that are not**
41 **foreign investments and that meet the requirement of rated credit**
42 **instruments if as a result of and after giving effect to the investment:**

43 **(1) The aggregate amount of preferred stocks then held by the**
44 **insurer under this subsection does not exceed twenty percent of its**
45 **admitted assets; and**

46 **(2) The aggregate amount of preferred stocks then held by the**
47 **insurer under this subsection which are not sinking fund stocks or rated**
48 **"P1" or "P2" by the SVO does not exceed ten percent of its admitted**
49 **assets.**

50 **5. Subject to the limitations of subsection 6 of this section and**

51 **section 376.297, in addition to those investments eligible under**
52 **subsections 1 to 4 of this section, an insurer may acquire rated credit**
53 **instruments that are not foreign investments.**

54 **6. An insurer shall not acquire special rated credit instruments**
55 **under this section if as a result of and after giving effect to the**
56 **investment the aggregate amount of special rated credit instruments**
57 **then held by the insurer would exceed five percent of its admitted**
58 **assets. The director may by rule under section 376.305 identify certain**
59 **special rated credit instruments that will be exempt from the limitation**
60 **imposed by this subsection.**

376.300. 1. [All other laws to the contrary notwithstanding, the capital,
2 reserve and surplus of all life insurance companies of whatever kind and
3 character organized pursuant to the laws of this state shall be invested only in
4 the following:

5 (1) Bonds, notes or other evidences of indebtedness, issued, assumed or
6 guaranteed as to principal and interest, by the United States, any state, territory
7 or possession of the United States, the District of Columbia, or of an
8 administration, agency, authority or instrumentality of any of the political units
9 enumerated, and of the Dominion of Canada;

10 (2) Bonds, notes or other evidences of indebtedness issued, assumed or
11 guaranteed as to principal and interest by any foreign country or state not
12 mentioned in subdivision (1) insofar as such bonds, notes or other evidences of
13 indebtedness may be necessary or required in order to do business in such foreign
14 state or country;

15 (3) Bonds, notes or other evidences of indebtedness issued, guaranteed or
16 insured as to principal and interest by a city, county, drainage district, levee
17 district, road district, school district, tax district, town, township, village or other
18 civil administration, agency, authority, instrumentality or subdivision of a city,
19 county, state, territory or possession of the United States or of the District of
20 Columbia, provided such obligations are authorized by law;

21 (4) Loans evidenced by bonds, notes or other evidences of indebtedness
22 guaranteed or insured, but only to the extent guaranteed or insured by the United
23 States, any state, territory or possession of the United States, the District of
24 Columbia, or by any agency, administration, authority or instrumentality of any
25 of the political units enumerated;

26 (5) Bonds, notes or other evidences of indebtedness issued, assumed or
27 guaranteed by a corporation organized under the laws of the United States, any

28 state, territory or possession of the United States, or the District of Columbia,
29 provided such bonds, notes or other evidences of indebtedness shall meet with the
30 requirements of section 375.532, RSMo, and sections 375.1070 to 375.1075, RSMo;

31 (6) (a) Notes, equipment trust certificates or obligations which are
32 adequately secured, or other adequately secured instruments evidencing an
33 interest in any equipment leased or sold to a corporation, other than the life
34 insurance company making the investment or its parent or affiliates, which
35 qualifies under subdivision (5) of this subsection for investment in its bonds,
36 notes, or other evidences of indebtedness, or to a common carrier, domiciled
37 within the United States or the Dominion of Canada, with gross revenues
38 exceeding one million dollars in the fiscal year immediately preceding purchase,
39 which provide a right to receive determined rental, purchase, or other fixed
40 obligatory payments for the use or purchase of such equipment and which
41 obligatory payments are adequate to retire the obligations within twenty years
42 from date of issue; or

43 (b) Notes, trust certificates, or other instruments which are adequately
44 secured. Such notes, trust certificates, or other instruments shall be considered
45 adequately secured for the purposes of this paragraph if a corporation or
46 corporations which qualify under subdivision (5) of this subsection for investment
47 in their bonds, notes, or other evidences of indebtedness, are jointly or severally
48 obliged under a binding lease or agreement to make rental, purchase, use, or
49 other payments for the benefit of the life insurance company making the
50 investment which are adequate to retire the instruments according to their terms
51 within twenty years from date of issue;

52 (7) Preferred or guaranteed stocks or shares of any solvent corporation
53 created or existing under the laws of the United States, any state, territory or
54 possession of the United States, or the District of Columbia, if all of the prior
55 obligations including prior preferred stocks, if any, of such corporation, at the
56 date of acquisition, are eligible as investments under any provisions of this
57 section; and if qualified under section 375.532, RSMo, and sections 375.1070 to
58 375.1075, RSMo;

59 (8) Stocks or shares of insured state-chartered building and loan
60 associations, federal savings and loan associations, if such shares are insured by
61 the Federal Savings and Loan Insurance Corporation pursuant to the terms of
62 Title IV of the act of the Congress of the United States, entitled "The National
63 Housing Act" (12 U.S.C.A. Sections 1724 to 1730), as the same presently exists
64 or may subsequently be amended, and federal home loan banks;

65 (9) Loans evidenced by notes or other evidences of indebtedness and
66 secured by first mortgage liens on unencumbered real estate or unencumbered
67 leaseholds having at least twenty-five years of unexpired term, such real estate
68 or leaseholds to be located in the United States, any territory or possession of the
69 United States. Such loans shall not exceed eighty percent of the fair market
70 value of the security of the loan for insurance companies. However, insurance
71 companies may make loans in excess of eighty percent of the fair market value
72 of the security for the loan, but not to exceed ninety-five percent of the fair
73 market value of the security for the loan, if that portion of the total indebtedness
74 in excess of seventy-five percent of the value of the security for the loan is
75 guaranteed or insured by a mortgage insurance company authorized by the
76 director of insurance to do business in this state, and provided the mortgage
77 insurance company is not affiliated with the entity making the loan. In addition,
78 an insurance company may not place more than two percent of its admitted assets
79 in loans in which the amount of the loan exceeds ninety percent of the fair market
80 value of the security for the loan. An entity which is restricted by section
81 104.440, RSMo, in making investments to those authorized life insurance
82 companies may make loans in excess of eighty percent of the fair market value
83 of the security of the loan if that portion of the total indebtedness in excess of
84 eighty percent of the fair market value is insured by a mortgage insurance
85 company authorized by the director of insurance to do business in this state. Any
86 life insurance company may sell any real estate acquired by it and take back a
87 purchase money mortgage or deed of trust for the whole or any part of the sale
88 price; and such percentage may be exceeded if and to the extent such excess is
89 guaranteed or insured by the United States, any state, territory or possession of
90 the United States, any city within the United States having a population of one
91 hundred thousand or more or by an administration, agency, authority or
92 instrumentality of any such governmental units; and such percentage shall not
93 exceed one hundred percent if such a loan is made to a corporation which
94 qualifies pursuant to subdivision (5) for investment in its bonds, notes or other
95 evidences of indebtedness, or if the borrower assigns to the lender a lease or
96 leases on the real estate providing rentals payable to the borrower in amounts
97 sufficient to repay such loan with interest in the manner specified by the note or
98 notes evidencing such loan and executed as lessee or lessees by a corporation or
99 corporations, which qualify pursuant to subdivision (5) for investment in its or
100 their bonds, notes or other evidences of indebtedness. No mortgage loan upon a
101 leasehold shall be made or acquired pursuant to this subdivision unless the terms

102 of the mortgage loan shall provide for amortization payments to be made by the
103 borrower on the principal thereof at least once in each year in amounts sufficient
104 to completely amortize the loan within four-fifths of the term of the leasehold
105 which is unexpired at the time the loan is made, but in no event exceeding thirty
106 years. Real estate or a leasehold shall not be deemed to be encumbered by reason
107 of the existence in relation thereto of:

108 (a) Liens inferior to the lien securing the loan made by the life insurance
109 company;

110 (b) Taxes or assessment liens not delinquent;

111 (c) Instruments creating or reserving mineral, oil or timber rights,
112 rights-of-way, common or joint driveways, easements for sewers, walls or utilities;

113 (d) Building restrictions and other restrictive covenants; or

114 (e) An unassigned lease reserving rents or profits to the owner;

115 (10) Shares of stock, bonds, notes or other evidences of indebtedness
116 issued, assumed or guaranteed by an urban redevelopment corporation organized
117 pursuant to the provisions of chapter 353, RSMo, known as the "Urban
118 Redevelopment Corporations Law", or any amendments thereto, or any law
119 enacted in lieu thereof; provided, that one or more such life insurance companies
120 may, with the approval of the director of the department of insurance, subscribe
121 to and own all of the shares of stock of any such urban redevelopment
122 corporation; and provided further, that the aggregate investment by any such
123 company pursuant to the terms of this subdivision shall not be in excess of five
124 percent of the admitted assets of such company;

125 (11) Land situated in this state and located within an area subject to
126 redevelopment within the meaning of the urban redevelopment corporations law,
127 or any amendments thereto, or any law enacted in lieu thereof, which land is
128 acquired for the purposes specified in such urban redevelopment corporations law,
129 and any such life insurance company may erect apartments, tenements or other
130 dwelling houses, not including hotels, but including accommodations for retail
131 stores, shops, offices and other community services reasonably incident to such
132 projects, and such company may thereafter own, hold, rent, lease, collect or
133 receive income, maintain and manage such land so acquired and the
134 improvements thereon, as real estate necessary and proper for the carrying on of
135 its legitimate business; provided, that any such life insurance company shall have
136 power to own, hold, maintain and manage such land, and all improvements
137 thereon, in accordance with the urban redevelopment corporations law,
138 amendments thereto or any law enacted in lieu thereof, and shall have all the

139 powers, duties, obligations, privileges and immunities, including any tax
140 exemption, credits or relief, granted an urban redevelopment corporation,
141 pursuant to the urban redevelopment corporations law, amendments thereto or
142 any law enacted in lieu thereof, the same as if such insurance company were an
143 urban redevelopment corporation organized pursuant to the provisions of that
144 law; provided, that two or more such life insurance companies may, with the
145 approval of the director of the department of insurance, enter into agreements
146 whereby the ownership and management and control of a redevelopment project
147 is participated in by each such company; and provided further that the aggregate
148 investment by any such company pursuant to the terms of this subdivision shall
149 not be in excess of five percent of the admitted assets of such company;

150 (12) Investments in property and processes for the development and
151 production of solar or geothermal energy, fossil or synthetic fuels, or gasohol,
152 whether made directly or as a participant in a general partnership, limited
153 partnership or joint venture] **Subject to the limitations of section 376.297,**
154 **an insurer may acquire equity interests in business entities organized**
155 **under the laws of any domestic jurisdiction.**

156 2. [No such life insurance company shall invest in any of the foregoing
157 securities in excess of the following percentages of the admitted assets of such
158 company, as shown by its last annual statement preceding the date of acquisition,
159 as filed with the director of the insurance department of the state of Missouri:

160 (1) Ten percent of its admitted assets in the securities issued by any one
161 corporation or governmental unit falling pursuant to the classification set forth
162 in subdivisions (3), (5), (6), (7) and (8) of subsection 1;

163 (2) One percent of its admitted assets or ten percent of its capital and
164 surplus, whichever is greater, in any single loan on real estate pursuant to
165 subdivision (9) of subsection 1;

166 (3) Ten percent of the admitted assets in the total amount of securities
167 described in subdivision (7) of subsection 1, and no such life insurance company
168 shall own securities described in subdivision (7) of subsection 1 of any one
169 corporation which, in the aggregate, represents more than five percent of the total
170 of all outstanding shares of stock of that corporation;

171 (4) One percent of its admitted assets in the bonds, notes or other
172 evidences of indebtedness of the Dominion of Canada and mentioned in
173 subdivision (1) of subsection 1; provided, however, that in addition thereto any
174 such life insurance company which has outstanding insurance contracts on lives
175 of persons residing in the Dominion of Canada may invest in bonds, notes or other

176 evidences of indebtedness of the Dominion of Canada and mentioned in
177 subdivision (1) of subsection 1, to an amount not in excess of the total amount of
178 its reserves and other accrued liabilities under such contracts;

179 (5) Five percent of its admitted assets in the notes or trust certificates
180 secured by any equipment leased or sold to a corporation falling under the
181 classification set forth in subdivision (5) of subsection 1 or to a common carrier
182 domiciled in the Dominion of Canada and mentioned in subdivision (6) of
183 subsection 1;

184 (6) Three percent of its admitted assets in loans evidenced by notes or
185 other evidences of indebtedness and secured by liens on unencumbered leaseholds
186 having at least twenty-five years of unexpired term and mentioned in subdivision
187 (9) of subsection 1;

188 (7) One percent of its admitted assets, or five percent of that portion of its
189 admitted assets in excess of two hundred fifty million dollars, whichever is
190 greater, in energy-related investments specified in subdivision (12) of subsection
191 **1] An insurer shall not acquire an investment under this section if as a**
192 **result of and after giving effect to the investment the aggregate amount**
193 **of investments then held by the insurer under this section would exceed**
194 **twenty percent of its admitted assets, or except for mutual funds, the**
195 **amount of equity interests then held by the insurer that are not listed**
196 **on a qualified exchange would exceed five percent of its admitted assets.**

197 3. [The term "corporation", as used in subdivisions (5) and (7) of
198 subsection 1, shall include private corporations, joint stock associations or
199 business trusts. In applying the earnings tests, provided herein, to any issuing,
200 assuming or guaranteeing corporation, whether or not in legal existence during
201 the whole of the test period, and if such corporation has during the test period
202 acquired the assets of any other corporation or corporations by purchase, merger,
203 consolidation or otherwise, or has been reorganized pursuant to the bankruptcy
204 law, the earnings available for interest and dividends of such other predecessor
205 or constituent corporation or the corporation so reorganized shall be considered
206 as the earnings of the issuing, assuming or guaranteeing corporation] **An insurer**
207 **shall not acquire under this section any investment that the insurer may**
208 **acquire under section 376.302.**

209 4. [Nothing contained in this section shall be construed as repealing or
210 affecting the provisions of sections 375.330, 375.340, and 375.355, RSMo] **An**
211 **insurer shall not short sell equity interests unless the insurer covers the**
212 **short sale by owning the equity interest or an unrestricted right to the**

213 **equity interest exercisable within six months of the short sale.**

376.301. 1. [In addition to the investments permitted by section 376.300,
2 the capital, reserve and surplus of all life insurance companies of whatever kind
3 and character, organized under the laws of this state, may be invested in the
4 following, and the same shall be eligible for deposit under section 376.170:

5 (1) Bonds, notes or other evidences of indebtedness issued, assumed or
6 guaranteed as to principal and interest, by the Dominion of Canada, or any
7 province thereof;

8 (2) Investments in Canada which are substantially of the same kinds,
9 classes and investment grades or quality as those specified in subsection 1 of
10 section 376.300] **(1) Subject to the limitations of section 376.297, an insurer**
11 **may acquire tangible personal property or equity interest therein**
12 **located or used wholly or in part within a domestic jurisdiction directly**
13 **or indirectly through limited partnership interest and general**
14 **partnership interest not otherwise prohibited by subsection 4 of section**
15 **376.294, joint ventures, stock of an investment subsidiary or membership**
16 **interests in a limited liability company, trust certificates, or other**
17 **similar instruments.**

18 (2) Investments acquired under subdivision (1) of this subsection
19 shall be eligible only if:

20 (a) The property is subject to a lease or other agreement with a
21 person whose rated credit instruments in the amount of the purchase
22 prices of the personal property the insurer could then acquire under
23 section 376.298; and

24 (b) The lease or other agreement provides the insurer the right
25 to receive rental, purchase, or other fixed payments for this use or
26 purchase of the property and the aggregate value of the payments,
27 together with the estimated residual value of the property at the end of
28 its useful life and the estimated tax benefits to the insurer resulting
29 from ownership of the property shall be adequate to return the cost of
30 the insurer's investment in the property plus a return deemed adequate
31 by the insurer.

32 2. [No life insurance company shall invest in excess of one percent of its
33 admitted assets in any one investment under this section and the aggregate
34 amount of all investments under this section shall not exceed ten percent of its
35 admitted assets; provided, however, that in addition thereto any life insurance
36 company which has outstanding insurance contracts on lives of persons residing

37 in the Dominion of Canada may make investments under this section to an
38 amount not in excess of the total amount of its reserves and other accrued
39 liabilities under such contracts] **An insurer shall compute the amount of**
40 **each investment under this section on the basis of the out-of-pocket**
41 **purchase price and applicable related expenses paid by the insurer for**
42 **the investment, net of each borrowing made to finance the purchase**
43 **price, and expenses to the extent the borrowing is without recourse to**
44 **the insurer.**

45 **3. An insurer shall not acquire an investment under this section**
46 **if as a result of and after giving effect to the investment the aggregate**
47 **amount of all investments then held by the insurer under this section**
48 **would exceed:**

49 **(1) Two percent of its admitted assets; or**

50 **(2) One-half of one percent of its admitted assets as to any single**
51 **item of tangible personal property.**

52 **4. For purposes of determining compliance with the limitations**
53 **of section 376.297, investments acquired by an insurer under this section**
54 **shall be aggregated with those acquired under section 376.298 and each**
55 **lessee of the property under a lease referred to in this section shall be**
56 **deemed the issuer of an obligation in the amount of the investment of**
57 **the insurer in the property determined as provided in subsection 2 of**
58 **this section.**

59 **5. Nothing in this section shall be applicable to tangible personal**
60 **property lease arrangements between an insurer and its subsidiaries and**
61 **affiliates under a cost-sharing arrangement or agreement permitted**
62 **under chapter 382, RSMo.**

376.302. 1. (1) Subject to the limitations of section 376.297, an
2 **insurer may acquire directly or indirectly through limited partnership**
3 **interests and general partnership interests not otherwise prohibited by**
4 **subsection 4 of section 376.294, joint ventures, stock of an investment**
5 **subsidiary or membership interests in a limited liability company, trust**
6 **certificates, or other similar instruments or obligations secured by**
7 **mortgages on real estate situated within a domestic jurisdiction, but a**
8 **mortgage loan which is secured by other than a first lien shall not be**
9 **acquired under this subdivision unless the insurer is the holder of the**
10 **first lien. The obligations held by the insurer and any obligations with**
11 **an equal lien priority shall not at the time of acquisition of the**

12 **obligation exceed:**

13 **(a) Ninety percent of the fair market value of the real estate if the**
14 **mortgage loan is secured by a purchase money mortgage or like security**
15 **received by the insurer upon disposition of the real estate;**

16 **(b) Eighty percent of the fair market value of the real estate if the**
17 **mortgage requires immediate scheduled payment in periodic**
18 **installments of principal and interest and has an amortization period of**
19 **thirty years or less and periodic payments not less than annually. Each**
20 **periodic payment shall be sufficient to assure that at all times:**

21 **a. The outstanding principal balance of the mortgage loan is not**
22 **greater than the outstanding principal balance that would be**
23 **outstanding under a mortgage loan with the same original principal**
24 **balance and interest rate; and**

25 **b. There are equal payments of principal and interest with the**
26 **same frequency over the same amortization period.**

27 **Mortgage loans permitted under this subsection are permitted**
28 **notwithstanding the fact that they provide for a payment of the**
29 **principal balance prior to the end of the period of the amortization of**
30 **the loan. For residential mortgage loans, the eighty percent limitation**
31 **may be increased to ninety-seven percent if acceptable private mortgage**
32 **insurance has been obtained; or**

33 **(c) Seventy-five percent of the fair market value of the real estate**
34 **for mortgage loans that do not meet the requirements of paragraph (a)**
35 **or (b) of this subdivision.**

36 **(2) For purposes of subdivision (1) of this subsection, the amount**
37 **of an obligation required to be included in the calculation of the loan-to-**
38 **value ratio may be reduced to the extent the obligation is insured by the**
39 **Federal Housing Administration or guaranteed by the Administrator of**
40 **Veterans' Affairs, or their successor.**

41 **(3) Subject to the limitations of section 376.297, an insurer may**
42 **acquire directly or indirectly through limited partnership interests and**
43 **general partnership interests not otherwise prohibited by subsection 4**
44 **of section 376.294, joint ventures, stock of an investment subsidiary or**
45 **membership interests in a limited liability company, trust certificates,**
46 **or other similar instruments or obligations secured by a second**
47 **mortgage on real estate situated within a domestic jurisdiction other**
48 **than as authorized in subdivision (1) of this subsection. The obligation**

49 held by the insurer shall be the sole second lien priority obligation and
50 shall not at the time of acquisition of the obligation exceed seventy
51 percent of the amount by which the fair market value of the real estate
52 exceeds the amount outstanding under the first mortgage.

53 (4) A mortgage loan that is held by an insurer under subdivision
54 (6) of subsection 1 of section 376.293 or acquired under this section and
55 is restructured in a manner that meets the requirements of a
56 restructured mortgage loan in accordance with the NAIC Accounting
57 Practices and Procedures Manual or its successor publication shall
58 continue to qualify as a mortgage loan.

59 (5) Subject to the limitations of section 376.297, credit lease
60 transactions that do not qualify for investment under section 376.298
61 with the following characteristics shall be exempt from the provisions
62 of subdivision (1) of this subsection:

63 (a) The loan amortizes over the initial fixed lease term at least in
64 an amount sufficient so that the loan balance at the end of the lease
65 term does not exceed the original appraised value of the real estate;

66 (b) The lease payments cover or exceed the total debt service over
67 the life of the loan;

68 (c) A tenant or its affiliated entity whose rated credit instruments
69 have a SVO "1" or "2" designation or a comparable rating from a
70 nationally recognized statistical rating organization recognized by the
71 SVO has a full faith and credit obligation to make the lease payments;

72 (d) The insurer holds or is the beneficial holder of a first lien
73 mortgage on the real estate;

74 (e) The expenses of the real estate are passed through to the
75 tenant, excluding exterior structural, parking and heating, ventilation
76 and air conditioning replacement expenses, unless annual escrow
77 contributions from cash flows derived from the lease payments cover the
78 expense shortfall; and

79 (f) There is a perfected assignment of the rents due under the
80 lease to or for the benefit of the insurer.

81 2. (1) An insurer may acquire, manage, and dispose of real estate
82 situated in a domestic jurisdiction directly or indirectly through limited
83 partnership interests and general partnership interests not otherwise
84 prohibited by subsection 4 of section 376.294, joint ventures, stock of an
85 investment subsidiary or membership interests in a limited liability

86 company, trust certificates, or other similar instruments. The real estate
87 shall be income producing or intended for improvement or development
88 for investment purposes under an existing program in which case the
89 real estate shall be deemed to be income producing.

90 (2) The real estate may be subject to mortgages, liens, or other
91 encumbrances, and the amount of which shall, to the extent that the
92 obligations secured by the mortgages, liens, or encumbrances are
93 without recourse to the insurer, be deducted from the amount of the
94 investment of the insurer in the real estate for purposes of determining
95 compliance with paragraphs (b) and (c) of subsection 4 of this section.

96 3. An insurer may acquire, manage, and dispose of real estate for
97 the convenient accommodation of the insurer's (which may include its
98 affiliates) business operations, including home office, branch office, and
99 field office operations. Such real estate acquired may:

100 (1) Include excess space for rent to others if the excess space at
101 its fair market value would otherwise be a permitted investment under
102 subsection 2 of this section and is so qualified by the insurer; or

103 (2) Be subject to one or more mortgage, lien, or other
104 encumbrance, and the amount of which shall, to the extent that the
105 obligations secured by the mortgages, liens, or encumbrances are
106 without recourse to the insurer, be deducted from the amount of the
107 investment of the insurer in the real estate for purposes of determining
108 compliance with subsection 4 of this section.

109 For purposes of this subsection, business operations shall not include
110 that portion of real estate used for the direct provision of health care
111 services by an accident and health insurer for its insureds. An insurer
112 may acquire real estate used for these purposes under subsection 2 of
113 this section.

114 4. An insurer may not acquire an investment:

115 (1) Under subsection 1 of this section, if as a result of, and after
116 giving effect to the investment, the aggregate amount of all investments
117 then held by the insurer under subsection 1 of this section would not
118 exceed:

119 (a) One percent of its admitted assets in mortgage loans covering
120 any one secured location;

121 (b) One-fourth of one percent of its admitted assets in
122 construction loans covering any one secured location; or

123 (c) Two percent of its admitted assets in construction loans in the
124 aggregate;

125 (2) Under subsection 2 of this section if as a result of and after
126 giving effect to the investment and any outstanding guarantees made by
127 the insurer in connection with the investment the aggregate amount of
128 investments then held by the insurer under subsection 2 of this section
129 plus the guarantees then outstanding would exceed:

130 (a) One percent of its admitted assets in one parcel or group of
131 contiguous parcels of real estate, except that this limitation shall not
132 apply to that portion of real estate used for the direct provision of
133 health care services by an accident and health insurer for its insureds,
134 such as hospitals, medical clinics, medical professional buildings, or
135 other health facilities for the purposes of providing health services; or

136 (b) Fifteen percent of its admitted assets in the aggregate but not
137 more than five percent of its admitted assets in real estate to be
138 improved or developed;

139 (3) Under subsection 1 or 2 of this section if as a result of and
140 after giving effect to the investment and any guarantees made by the
141 insurer in connection with the investment the aggregate amount of all
142 investments then held by the insurer under subsections 1 and 2 of this
143 section plus the guarantees then outstanding would exceed forty-five
144 percent of its admitted assets. However, an insurer may exceed this
145 limitation by no more than thirty percent of its admitted assets if:

146 (a) This increased amount is invested only in residential mortgage
147 loans;

148 (b) The insurer has no more than ten percent of its admitted
149 assets invested in mortgage loans other than residential mortgage loans;

150 (c) The loan-to-value ratio of each residential mortgage loan does
151 not exceed sixty percent at the time the mortgage loan is qualified under
152 this increased authority and the fair market value is supported by an
153 appraisal no more than two years old prepared by an independent
154 appraiser;

155 (d) A single mortgage loan qualified under this increased
156 authority does not exceed one-half of one percent of its admitted assets;

157 (e) The insurer files with the director and receives approval from
158 the director for a plan that is designed to result in a portfolio of
159 residential mortgage loans that is geographically diversified; and

160 **(f) The insurer agrees to file annually with the director records**
161 **that demonstrate that its portfolio of residential mortgage loans is**
162 **geographically diversified in accordance with the plan.**
163 **The limitations of section 376.297 shall not apply to an insurer's**
164 **acquisition of real estate under subsection 3 of this section. An insurer**
165 **shall not acquire real estate under subsection 3 of this section if as a**
166 **result of and after giving effect to the acquisition the aggregate amount**
167 **of real estate then held by the insurer under subsection 3 of this section**
168 **would exceed ten percent of its admitted assets. With the permission of**
169 **the director, additional amounts of real estate may be acquired under**
170 **subsection 3 of this section.**

 376.303. [In addition to the investments permitted by section 376.300, the
2 capital, reserve and surplus of all life insurance companies of whatever kind and
3 character, organized or doing business under this chapter, may be invested in
4 bonds, notes, or other evidences of indebtedness, payable in United States dollars,
5 issued, assumed or guaranteed as to principal and interest by the International
6 Bank for Reconstruction and Development, Inter-American Development Bank,
7 the Asian Development Bank, or the African Development Bank, and such
8 securities shall be eligible for deposit under section 376.170, provided, however,
9 that the amount invested by any such life insurance company in such bonds,
10 notes, or other evidences of indebtedness shall not in the aggregate exceed two
11 percent of the admitted assets of such life insurance company.] **An insurer may**
12 **enter into securities lending, repurchase, reverse repurchase, and dollar**
13 **roll transactions with business entities subject to the following**
14 **requirements:**

15 **(1) The insurer's board of directors shall adopt a written plan that**
16 **is consistent with the requirements of the written plan under**
17 **subdivision (1) of subsection 2 of section 376.293 that specifies guidelines**
18 **and objectives to be followed, such as:**

19 **(a) A description of how cash received will be invested or used for**
20 **general corporate purposes of the insurer;**

21 **(b) Operational procedures to manage interest rate risk,**
22 **counterparty default risk, the conditions under which proceeds from**
23 **reverse repurchase transactions may be used in the ordinary course of**
24 **business, and use of acceptable collateral in a manner that reflects the**
25 **liquidity needs of the transaction; and**

26 **(c) The extent to which the insurer may engage in these**

27 transactions;

28 (2) The insurer shall enter into a written agreement for all
29 transactions authorized in this section other than dollar roll
30 transactions. The written agreement shall require that each transaction
31 terminate no more than one year from its inception or upon the earlier
32 demand of the insurer. The agreement shall be with the business entity
33 counterparty and the agreement may be with an agent acting on behalf
34 of the insurer if the agent is a qualified business entity and if the
35 agreement:

36 (a) Requires the agent to enter into separate agreements with
37 each counterparty that are consistent with the requirements of this
38 section; and

39 (b) Prohibits securities lending transactions under the agreement
40 with the agent or its affiliates;

41 (3) Cash received in a transaction under this section shall be
42 invested in accordance with this chapter and in a manner that
43 recognizes the liquidity needs of the transaction or used by the insurer
44 for its general corporate purpose. So long as the transaction remains
45 outstanding, the insurer, its agent, or custodian shall maintain as to
46 acceptable collateral received in a transaction under this section either
47 physically or through the book entry systems of the Federal Reserve,
48 Depository Trust Company, Participants Trust Company, or other
49 securities depositories approved by the director:

50 (a) Possession of the acceptable collateral;

51 (b) A perfected security interest in the acceptable collateral; or

52 (c) In the case of a jurisdiction outside of the United States, title
53 to or rights of a secured creditor to the acceptable collateral;

54 (4) The limitations of sections 376.297 and 376.304 shall not apply
55 to the business entity counterparty exposure created by transactions
56 under this section. For purposes of calculations made to determine
57 compliance with this subsection, no effect will be given to the insurer's
58 future obligation to resell securities in the case of a repurchase
59 transaction or to repurchase securities in the case of a reverse
60 repurchase transaction. An insurer shall not enter into a transaction
61 under this section if as a result of and after giving effect to the
62 transaction:

63 (a) The aggregate amount of securities then loaned, sold to, or

64 purchased from any one business entity counterparty under this section
65 would exceed five percent of its admitted assets. In calculating the
66 amount sold to or repurchased from a business entity counterparty
67 under repurchase or reverse repurchase transactions, effect may be
68 given to netting provisions under a master written agreement; or

69 (b) The aggregate amount of all securities then loaned, sold to, or
70 purchased from all business entities under this section would exceed
71 forty percent of its admitted assets;

72 (5) In a dollar roll transaction, the insurer shall receive cash in
73 an amount at least equal to the market value of the securities
74 transferred by the insurer in the transaction as of the transaction date.

376.304. 1. Subject to the limitations of section 376.297, an insurer
2 may acquire foreign investments or engage in investment practices with
3 persons of or in foreign jurisdictions of substantially the same types as
4 those that an insurer is permitted to acquire under this chapter, other
5 than the type permitted under section 376.311 if as a result and after
6 giving effect to the investment:

7 (1) The aggregate amount of foreign investments then held by the
8 insurer under this subsection does not exceed twenty percent of the
9 admitted assets; and

10 (2) The aggregate amount of foreign investments then held by the
11 insurer under this subsection in a single foreign jurisdiction does not
12 exceed ten percent of its admitted assets as to a foreign jurisdiction that
13 has a sovereign debt rating of SVO "1" or three percent of its admitted
14 assets as to any other foreign jurisdiction.

15 2. Subject to the limitations of section 376.297, an insurer may
16 acquire investments or engage in investment practice denominated in
17 foreign currencies whether or not they are foreign investments acquired
18 under subsection 1 of this section or additional foreign currency
19 exposure as a result of the termination or expiration of a hedging
20 transaction with respect to investments denominated in a foreign
21 currency if as a result of and after giving effect to the transaction:

22 (1) The aggregate amount of investments then held by the insurer
23 under this subsection denominated in foreign currencies does not exceed
24 ten percent of its admitted assets; and

25 (2) The aggregate amount of investments then held by the insurer
26 under this subsection denominated in the foreign currency of a single

27 foreign jurisdiction does not exceed ten percent of its admitted assets as
28 to a foreign jurisdiction that has a sovereign debt rating of SVO "1" or
29 three percent of its admitted assets as to any other foreign jurisdiction.

30 3. An investment shall not be considered denominated in a foreign
31 currency if the acquiring insurer enters into one or more contracts in
32 transactions permitted under section 375.345, RSMo, in which the
33 business entity counterparty agrees to exchange or grants to the insurer
34 the option to exchange all payments made on the foreign currency
35 denominated investment, or amounts equivalent to the payments that
36 are or will be due to the insurer in accordance with the terms of such
37 investment, for United States currency during the period the contract
38 or contracts are in effect to insulate the insurer from loss caused by
39 diminution of the value of payments owed to the insurer due to future
40 changes in currency exchange rates.

41 4. In addition to investments permitted under subsections 1 to 3
42 of this section, an insurer that is authorized to do business in a foreign
43 jurisdiction and that has an outstanding insurance, annuity, or
44 reinsurance contract on lives or risks resident or located in that foreign
45 jurisdiction and denominated in foreign currency of that jurisdiction
46 may acquire investments denominated in the currency of that
47 jurisdiction subject to the limitations of section 376.297. However,
48 investments made under this subsection in obligations of foreign
49 governments, their political subdivisions, and government sponsored
50 enterprises shall not be subject to the limitations of section 376.297 if
51 those investments carry an SVO rating of "1" or "2". The aggregate
52 amount of investments acquired by the insurer under this subsection
53 shall not exceed the greater of:

54 (1) The amount the insurer is required by the law of the foreign
55 jurisdiction to invest in the foreign jurisdiction; or

56 (2) One hundred fifteen percent of the amount of its reserves, net
57 of reinsurance, and other obligations under the contracts on lives or
58 risks resident or located in the foreign jurisdiction.

59 5. In addition to investments permitted under subsections 1 to 3
60 of this section, an insurer that is not authorized to do business in a
61 foreign jurisdiction but which has outstanding insurance, annuity, or
62 reinsurance contracts on lives or risks resident or located in that foreign
63 jurisdiction and denominated in foreign currency of that jurisdiction

64 may acquire foreign investments respecting that foreign jurisdiction and
65 may acquire investments denominated in the currency of that
66 jurisdiction, subject to the limitations of section 376.297. However,
67 investments made under this subsection in obligations of foreign
68 governments, their political subdivisions, and government sponsored
69 enterprises shall not be subject to the limitations of section 376.297 if
70 those investments carry an SVO rating of "1" or "2". The aggregate
71 amount of investments acquired by the insurer under this subsection
72 shall not exceed one hundred five percent of the amount of its reserves,
73 net of reinsurance, and other obligations under the contracts on lives
74 and risks resident or located in the foreign jurisdiction.

75 6. Investments acquired under this section shall be aggregated
76 with investments of the same type made under this chapter and in a
77 similar manner for purposes of determining compliance with the
78 limitations, if any, contained in this chapter. Investments in obligations
79 of foreign governments, their political subdivisions, and government
80 sponsored enterprises of these persons, except for those exempted under
81 subsections 4 and 5 of this section, shall be subject to the limitations of
82 section 376.297.

376.305. [1. In addition to the investments permitted by section 376.300,
2 the capital, reserve and surplus of all life insurance companies of whatever kind
3 and character organized or doing business under sections 376.010 to 376.670, may
4 be invested in the common stock of any solvent corporation, organized under the
5 laws of the United States, any state, territory or possession of the United States,
6 or the District of Columbia, or of the Dominion of Canada, or any province of the
7 Dominion of Canada, provided the corporation's net worth as shown on its balance
8 sheet at the end of the last fiscal year preceding purchase shall have been at least
9 ten million dollars, and that such common stocks are registered on a national
10 securities exchange or quoted in established over-the-counter markets, or provided
11 that such corporation is registered and operated as an open-end regulated
12 investment company in accordance with the Investment Company Act of 1940, as
13 amended. Common stocks meeting the preceding qualifications shall be eligible
14 for deposit, as provided under section 376.170.

15 2. No such life insurance company shall invest in excess of ten percent of
16 its admitted assets or an amount in excess of its combined capital and surplus,
17 whichever is the lesser, as shown by its last annual statement preceding the date
18 of acquisition, as filed with the director of the insurance department of the state

19 of Missouri, in the total amount of such common stocks, nor shall such life
20 insurance company own securities described in subdivision (7) of subsection 1 of
21 section 376.300, and subsection 1 of this section, which, in the aggregate,
22 represent more than five percent of the total of all outstanding shares of stock of
23 the issuing corporation, nor shall any such life insurance company own common
24 stock described in subsection 1 issued by any one corporation which represents
25 more than two percent of the admitted assets of such life insurance company.]
26 **The director may promulgate rules to implement the provisions of**
27 **sections 376.291 to 376.307. Any rule or portion of a rule, as that term is**
28 **defined in section 536.010, RSMo, that is created under the authority**
29 **delegated in this section shall become effective only if it complies with**
30 **and is subject to all of the provisions of chapter 536, RSMo, and, if**
31 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo,**
32 **are nonseverable and if any of the powers vested with the general**
33 **assembly under chapter 536, RSMo, to review, to delay the effective date,**
34 **or to disapprove and annul a rule are subsequently held**
35 **unconstitutional, then the grant of rulemaking authority and any rule**
36 **proposed or adopted after August 28, 2007, shall be invalid and void.**

376.306. A life insurer may lend to a policyholder on the security
2 of the cash surrender value of the policyholder's policy a sum not to
3 exceed the legal reserve that the insurer is required to maintain on the
4 policy.

376.307. 1. [Notwithstanding any direct or implied prohibitions in this
2 chapter or chapter 375, RSMo, the capital, reserve and surplus funds of all life
3 insurance companies of whatever kind and character organized or doing business
4 under this chapter or chapter 375, RSMo, may be invested in any investments
5 which do not otherwise qualify under any other provision of this chapter or
6 chapter 375, RSMo, provided, however, the investments authorized by this section
7 are not eligible for deposit with the department of insurance and shall be subject
8 to all the limitations set forth in subsection 2.

2. No such life insurance company shall own such investments in an
10 amount in excess of the following limitations, to be based upon its admitted
11 assets, capital and surplus as shown in its last annual statement filed with the
12 director of the department of insurance of the state of Missouri:

13 (1) The aggregate amount of all such investments under this section shall
14 not exceed the lesser of:

15 (a) Eight percent of its admitted assets; or

16 (b) The amount of its capital and surplus in excess of nine hundred
17 thousand dollars; and

18 (2) The amount of any one such investment under this section shall not
19 exceed one percent of its admitted assets.

20 3. If, subsequent to its acquisition hereunder, any such investment shall
21 become specifically authorized or permitted under any other section contained in
22 chapter 375 or 376, RSMo, any such company may thereafter consider such
23 investment as held under such other applicable section and not under this
24 section.] **Solely for the purpose of acquiring investments that exceed the**
25 **quantitative limitations of sections 376.297 to 376.304, an insurer may**
26 **acquire under this subsection an investment or engage in investment**
27 **practices described in section 376.303, but an insurer shall not acquire**
28 **an investment, or engage in investment practices described in section**
29 **376.303, under this subsection if as a result of and after giving effect to**
30 **the transaction:**

31 (1) **The aggregate amount of investments then held by an insurer**
32 **under this subsection would exceed three percent of its admitted assets;**
33 **or**

34 (2) **The aggregate amount of investments as to one limitation in**
35 **sections 376.297 to 376.304 then held by the insurer under this subsection**
36 **would exceed one percent of its admitted assets.**

37 2. **In addition to the authority provided in subsection 1 of this**
38 **section, an insurer may acquire under this subsection an investment of**
39 **any kind or engage in investment practices described in section 376.303**
40 **that are not specifically prohibited by this chapter without regard to the**
41 **categories, conditions, standards, or other limitations of sections 376.297**
42 **to 376.304 if as a result of and after giving effect to the transaction the**
43 **aggregate amount of investments then held under this subsection would**
44 **not exceed the lesser of:**

45 (1) **Ten percent of its admitted assets; or**

46 (2) **Seventy-five percent of its capital and surplus.**

47 **An insurer shall not acquire any investment or engage in any investment**
48 **practice under this subsection if as a result of and after giving effect to**
49 **the transaction the aggregate amount of all investments in any one**
50 **person then held by the insurer under this subsection would exceed**
51 **three percent of its admitted assets.**

52 3. **In addition to the investments acquired under subsections 1**

53 **and 2 of this section, an insurer may acquire under this subsection an**
54 **investment of any kind or engage in investment practices described in**
55 **section 376.303 that are not specifically prohibited by this chapter**
56 **without regard to any limitations of sections 376.297 to 376.304 if:**

57 **(1) The director grants prior approval;**

58 **(2) The insurer demonstrates that its investments are being made**
59 **in a prudent manner and that the additional amounts will be invested**
60 **in a prudent manner; and**

61 **(3) As a result of and after giving effect to the transaction, the**
62 **aggregate amount of investments then held by the insurer under this**
63 **subsection does not exceed the greater of:**

64 **(a) Twenty-five percent of its capital and surplus; or**

65 **(b) One hundred percent of its capital and surplus less ten**
66 **percent of its admitted assets.**

67 **4. Under this section, an insurer shall not acquire or engage in an**
68 **investment practice prohibited under section 376.294 or an investment**
69 **that is a derivative transaction.**

376.1012. Funds collected from the participating employers under multiple
2 employer self-insured health plans shall be held in trust subject to the following
3 requirements:

4 (1) A board of trustees elected by participating employers shall serve as
5 fund managers on behalf of participants. Trustees shall be plan participants. No
6 participating employer may be represented by more than one trustee. No trustee
7 may represent more than one employer. A minimum of three and a maximum of
8 seven trustees may be elected. Trustees may not receive remuneration but they
9 may be reimbursed for actual and reasonable expenses incurred in connection
10 with duties as trustee. A trustee may not be an agent, or broker for or an owner,
11 officer or employee of any third-party administrator, insurance agency or insurer
12 utilized by the plan. The trustees shall have the authority to approve
13 applications of association members for participation in the arrangement and to
14 contract with a licensed third-party administrator to administer the day-to-day
15 affairs of the plan;

16 (2) Each trustee shall be bonded in an amount of not less than one
17 hundred fifty thousand dollars by a licensed insurer;

18 (3) Investment of plan funds is subject to the same restrictions which are
19 applicable to insurers pursuant to sections [376.300 to 376.310] **376.291 to**
20 **376.307**; provided, however, that no foreign plan shall be exempt under section

21 376.310 from the investment laws of this state unless such plan is subject to laws
22 in its state of domicile which are substantially similar to sections 376.1032 to
23 376.1045. All investments shall be managed by a bank or other investment entity
24 licensed to operate in Missouri;

25 (4) Trustees, on behalf of the plan, shall file an annual report with the
26 director of the department of insurance by March first showing the condition and
27 affairs of the plan as of the preceding thirty-first day of December. The report
28 shall be made on forms prescribed by the director. The report shall summarize
29 the financial condition of the fund, itemize collections from participating
30 employers, detail all fund expenditures and provide any additional information
31 which the director requires. More frequent reports may be required at the
32 discretion of the director.

377.100. Every corporation doing business under sections 377.010 to
2 377.190 shall annually, on or before the first day of February, return to the
3 director of the insurance department, in such manner and form as he shall
4 prescribe, a statement of its affairs for the year ending on the preceding
5 thirty-first day of December, and the director, in person or by deputy, shall have
6 the power of visitation of and examination into the affairs of any such
7 corporation, which is conferred upon him in the case of life insurance companies
8 by the laws of this state; and all companies are hereby declared to be subject to
9 and required to conform to the provisions of chapters 374 and 375, RSMo, and
10 sections [376.300] **376.291** to 376.330, 376.580, 376.610 and 376.620, RSMo, and
11 governed and controlled by all the provisions in said sections contained; provided,
12 always, that nothing herein contained shall subject any corporation doing
13 business under sections 377.010 to 377.190 to any other provisions or
14 requirements of the general insurance laws of this state, except as distinctly
15 herein set forth and provided.

377.200. Any corporation, company or association issuing policies or
2 certificates promising money or other benefits to a member or policyholder, or
3 upon his decease to his legal representatives, or to beneficiaries designated by
4 him, which money or benefit is derived from stipulated premiums collected in
5 advance from its members or policyholders, and from interest and other
6 accumulations and wherein the money or other benefits so realized is applied to
7 or accumulated solely for the use and purposes of the corporation as herein
8 specified, and for the necessary expenses of the corporation, and the prosecution
9 and enlargement of its business, and which shall comply with all the provisions
10 of sections 377.200 to 377.460, shall be deemed to be engaged in the business of

11 life insurance upon the stipulated premium plan and shall be subject only to the
12 provisions of sections 377.200 to 377.460, except that the provisions of chapters
13 374 and 375, RSMo, and sections [376.300] **376.291** to 376.330, 376.675, 376.770
14 to 376.795, 376.500 to 376.510, and 376.590 to 376.600, RSMo, shall be applicable.
15 It shall be unlawful for any corporation, company or association not having
16 complied with the provisions of sections 377.200 to 377.460 to use the term
17 "stipulated premium" in its application or contracts, or to print or write the same
18 in its policies or literature.

381.068. In determining the financial condition of a title insurer doing
2 business pursuant to this chapter, the general investment provisions of sections
3 [376.300 to 376.305] **376.291 to 376.307**, RSMo, shall apply; except that, an
4 investment in a title plant or plants in an amount equal to the actual cost shall
5 be allowed as an admitted asset for title insurers. The aggregate amount of the
6 investment shall not exceed fifty percent of surplus to policyholders, as shown on
7 the most recent annual statement of the title insurer on file with the director.

409.950. Notwithstanding any other law to the contrary, securities or
2 other obligations issued by multinational development banks in which the United
3 States is a member nation, including the African Development Bank, shall be
4 treated as eligible for investment by all employee retirement systems and by all
5 fiduciaries created or regulated pursuant to the laws of this state. Nothing in
6 this section or in section [376.303 or] 379.080, RSMo, shall be construed to
7 require such investments.

[376.320. All bonds or other evidences of debt having a fixed
2 term and rate held by any life insurance company, assessment life
3 association or fraternal beneficiary association authorized to do
4 business in this state may, if amply secured and not in default as
5 to principal and interest, be valued as follows: If purchased at par,
6 at the par value; if purchased above or below par, on the basis of
7 the purchase price adjusted so as to bring the value to par at
8 maturity and so as to yield in the meantime the effective rate of
9 interest at which the purchase was made; provided, that the
10 purchase price shall in no case be taken at a higher figure than the
11 actual market value at the time of purchase; and provided further,
12 that the director of insurance shall have full discretion in
13 determining the method of calculating values according to the
14 foregoing rule.]

[376.672. The director of the department of insurance shall

2 establish by regulation the terms and conditions of policy loan
3 interest rate provisions for all policies issued or delivered by a life
4 insurance company in this state after August 13, 1982. Such
5 regulations shall include provisions for an adjustable maximum
6 interest rate based on the monthly average of the Moody's
7 Corporate Bond Yield Average--Monthly Average Corporates, as
8 published by Moody's Investors Service, Inc., the frequency at
9 which the rate is to be determined and appropriate notifications to
10 policyholders. No other provision of law shall apply to policy loan
11 interest rates unless made specifically applicable to such
12 rates. This section shall also apply to loan interest rate provisions
13 for certificates issued or delivered by fraternal benefit societies in
14 this state, and for purposes of this section the word "policy"
15 includes such certificates.]

✓

Bill

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